

RETURN

(IN PART)

(52)

To an ADDRESS of the HOUSE OF COMMONS, dated 5th March, 1886;—For copies of all documents forming the record in the cases of Her Majesty against the different parties tried in connection with the late rebellion including the jury lists, the names of the jurors, the lists of the jurors empannelled, the motions and affidavits filed, the evidence, the incidents of the trial, the charges of the Judge, the names of the Judges who tried the different cases, the names of the counsel for the prosecution and for the defence, the pleas entered, the verdicts and the sentences, and, in short, of every document whatever relating to the said trials.

By Command.

J. A. CHAPLEAU,

Department of the Secretary of State,
15th March, 1886.

Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 15th March, 1886.

Upon the reference of an Address of the Honorable the House of Commons, dated the 5th instant, for copies of all documents forming the record in the cases of Her Majesty against the different parties tried in connection with the late rebellion, including the jury lists, the names of the jurors, the lists of the jurors empannelled, the motions and affidavits filed, the evidence, the incidents of the trial, the charges of the judge, the names of the judges who tried the different cases, the names of the counsel for the prosecution and for the defence, the pleas entered, the verdicts and the sentences, and in short, of every document whatever relating to the said trials, the undersigned has the honor, in part compliance with the said Address, to transmit herewith transcripts of the records and proceedings of the fifty-five cases mentioned in the schedule hereto annexed.

With the exception of the transcript of the records and proceedings in the trials held at Battleford—which are now being prepared and will form a supplementary partial Return—these are all the papers covered by the Address in possession of this Department.

The Clerk of the Stipendiary Magistrate's Court at Regina and Battleford respectively, have been asked by telegraph to send copies of the records in the cases of all other parties held for trial in connection with the late rebellion.

A. POWER, *for Deputy of Minister Justice.*

QUEEN VS. OKA-DOKA ET AL.

THE QUEEN vs. OKA-DOKA and four other Indians, charged on the 14th September, 1885, before His Honor Judge Richardson, when he elected to be tried by a jury, the charge being as follows:—

CANADA :
North-West Territories. }

The information and complaint of Frederick Kelloch Gibson, in the town of Regina, in the North-West Territories of the Dominion of Canada, deputy sheriff, taken the fourteenth day of September, one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories, who saith :

That Oka doka, otherwise called The Hole, Wah-mah-de-dota, otherwise called Red Eagle, Cab-bree-ta-mah-hitchi, otherwise called Poor Crow, Mah-to dota, otherwise called Red Bean, and Kon-ah-mah-chee, otherwise called Left Hand, not regarding the duty of their allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does, and of right ought, to bear towards our said Lady the Queen, on the twenty-sixth day of March, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers other evil-disposed persons to the said Frederick Kelloch Gibson unknown, did, within the Dominion of Canada compass, imagine, invent, devise and intend, to levy war against our said Lady the Queen, within Canada, in order, by force and constraint, to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention; then feloniously and wickedly did express, utter and declare, by divers overt acts and deeds hereinafter mentioned, that is to say :—

In order to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said persons above charged, and each of them afterwards, to wit, on the twenty-sixth day of March, in the year aforesaid, and on divers other days and times, as well before as after that day, at and near the locality called Duck Lake, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil-disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said persons above charged, and each of them afterwards, to wit, on the twelfth day of May, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Batoche, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil-disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

In contempt of our said Lady the Queen and her laws, to the evil example of all others in the like case offending against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

FRED. K. GIBSON.

Sworn before me the day and year first above
mentioned, at the town of Regina, in the
North-West Territories of Canada. }

HUGH RICHARDSON,

Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace with the intervention of a jury of six, or before a stipendiary magistrate in a summary way, without the intervention of a jury. Which do you elect?

The prisoners were charged on the above charge on 14th September, 1885, before His Honor Judge Richardson, and they elected to be tried by a jury, and the trial

proceeds on this day Thursday, 17th September, before His Honor Judge Richardson and Dr. Dodd, J.P.

Mr. Joseph Morin, is sworn as interpreter.

Messrs. D. L. Scott and W. C. Hamilton, counsel for the Crown.

F. B. Robertson, counsel for prisoners.

Prisoners are asked to plead, which they did, pleading "not guilty," and Mr. Robertson says they are ready for their trial.

The following jury was sworn: George Wallace, William Williamson, George Webb, Marshall Ingersoll, John Child, Josiah Gilbert.

Charge read to the jury.

Clerk of Court.—Upon this charge the prisoners at the bar have been arraigned, and upon arraignment have pleaded not guilty, your duty therefore is to enquire whether they be guilty or not guilty, and hearken to the evidence.

Mr. Scott.—May it please your Honors, and gentlemen of the jury: The charge you have just heard read is for the offence known as treason-felony, it is punishable upon conviction by such term of imprisonment as the court may see fit to pronounce. The substance of the charge is that these men designed and intended to levy war against Her Majesty, which means the lawfully constituted Government of the country, and, to fulfil that intention, they conspired with others on certain occasions to raise and levy rebellion. There are two acts charged. The first is at Duck Lake on the 26th March, the second is at Batoche on the 12th May. Now, although you have all heard of the late rebellion in the north and know all about it, it will be necessary for us to show that there was a rebellion, that a rebellion existed there about those dates, we will show that the country in that neighborhood broke out into open rebellion about the 18th March last, when a large number of half-breeds under the leadership of Louis Riel took possession of that part of the country and organized an armed rebellion against the Government with the intention of setting up a Government in opposition to it. On the 26th March a fight occurred at Duck Lake in which several volunteers and some policemen were killed on the side of the Government, and some loss of life on the part of the rebels. The rebellion, as I said, continued until the 12th May, several fights ensued in that interval, but on that day the Government troops under General Middleton were victorious, the rebels were routed, and the rebellion in that part of the country was at an end. These prisoners are charged with being implicated in that rebellion. The first charge is at Duck Lake on the 26th March, we will show that at least one of the prisoners was there on that occasion—we may not be able to show that the others were there—and that he was seen going towards the fight, and that he was armed and was seen with the rebels going towards the fight, and was seen afterwards on several occasions in the Indian camp—the rebel camp.

Three of the others, as will be pointed out to you as the case proceeds, were seen several times during the time of the rebellion, with the rebels, and were seen at the rifle pits in the rifle pits at Batoche, about the 12th May last. They were seen there, we cannot show that they were seen shooting at all, but they were there in the rifle pits, when one of the witnesses whom we will call was passing through and saw them there. That is the substance of the evidence that we will be able to produce against these prisoners.

His Honor will tell you whether or not in his opinion such evidence is sufficient in law to lead you to find them guilty of the offence with which they are charged, that is, with designing and intending to levy rebellion. I don't know that I need say anything more. I have explained the case sufficiently to you, and the evidence will disclose it more fully as it is called.

WILLIAM TOMPKINS SWORN :—

Examined by Mr. Scott :

Q. You are an interpreter in the Indian Department or were, at Carlton? A. Yes.

Q. What happened to you on the 18th March last? A. I was taken prisoner.

- Q. Where? A. At Batoche.
- Q. By whom? A. By Riel and his followers.
- Q. In what state were they? A. In a state of rebellion.
- Q. How do you know? A. I seen them all with arms.
- Q. How many were they? A. I think about between 400 and 500.
- Q. Of what class of people? A. Sioux, Crees and half-breeds.
- Q. Was Louis Riel the leader? A. Yes.
- Q. Do you know what their object was? A. They wanted to have a new Government. (Interpreter interprets this to the prisoners in Sioux and Cree.)
- Q. Where were you taken to on the 18th March? A. I was taken to the church.
- Q. Where? A. At Batoche.
- Q. How long were you kept there? A. I was kept there until the next night, the night of the 18th.
- Q. And then what became of you? A. We were taken over to Walters' store across the river.
- Q. That is, on the west side? A. Yes.
- Q. How long were you detained there? A. Kept there until the morning of the 19th, and then we were removed back to the church.
- Q. And then how long did you remain? A. The next night we went to Garnot's house.
- Q. Where is that? A. At Batoche.
- Q. In the same settlement? A. Yes.
- Q. Were you taken across the river again? A. Yes, the time I was taken to Duck Lake.
- Q. When was that? A. 26th March.
- Q. And where were you placed at Duck Lake? A. In Mr. Mitchell's house.
- Q. Did anything happen that day at Duck Lake? A. Yes; the rebels and the police had a fight.
- Q. Where? A. About two miles from Duck Lake.
- Q. Did you see it? A. No.
- Q. Well, how do you know they had a fight? A. I heard reports, and then afterwards Riel came and told us.
- Q. You heard the firing; I suppose you mean by the reports? A. Yes.
- Q. And Riel afterwards came and told you? A. Yes.
- Q. Were there any other prisoners there besides you? A. Yes.
- Q. How many? A. Six.
- Q. Riel came afterwards; was it on the same day? A. Yes.
- Q. And told you that there had been a fight? A. Yes.
- Q. What did he say about it? A. He said he was glad to have a victory over the police.
- Q. Did he say what had happened during the fight? A. He said that they had killed quite a number.
- Q. Of what? A. Of volunteers and policemen.
- Q. And did he say what the result was? A. The result in his way, he thought it would favor him.
- Q. I suppose he said the result was a victory for him and his men? A. Yes.
- Q. How long were you detained a prisoner? A. Until the 12th May.
- Q. Where were you kept during that time? A. We were kept around the country. We were at Carlton, and then they brought us from Carlton back to Batoche and put us in Baptiste Boyer's house, and then on the day of the Fish Creek battle we were put in a cellar.
- Q. And how did you know there was a battle at Fish Creek? A. Half-breeds told me.
- Q. You heard from them that there had been a battle at Fish Creek? A. Yes.
- Q. On that day you were put in the cellar? A. Yes.
- Q. How long were you kept there? A. We were taken out twice. I am not sure. I think it was twice and then we were put back again when the fight came at Batoche, and in the cellar then four days.

- Q. You knew the fight lasted for four days at Batoche? A. Yes.
- Q. And ended on the 12th May? A. Yes.
- Q. How many prisoners were there in the cellar at that time? A. Six besides myself.
- Q. Then on the 12th what happened? A. We were released.
- Q. By whom? A. Gen. Middleton and his forces. (Interpreted in Cree and Sioux to prisoners.)
- Q. Then did that part of the country continue in a state of rebellion for that time after the 18th March? A. Yes.
- Q. Up to? A. 12th May.
- Q. Did you see any of the prisoners during that interval? A. I saw them all.
- Q. Where did you see No. 1, for instance, The Hole? A. I saw him at Batoche.
- Q. What was he doing? A. The same as the rest; he had arms, carrying arms.
- Q. How many times did you see him? A. I seen him frequently. I could not say how many times.
- Q. What opportunity had you of seeing him? A. Seeing him through the window.
- Q. Through the window of the house where you were imprisoned? A. Yes; they used to come out and dance.
- Q. Where there any other Indians with him? A. Yes; all the Sioux Indians used to dance, and the Crees used to join in with them.
- Q. That is all you remember about him, is it? A. Yes.
- Q. Do you know anything else about him besides what you have told? A. Well, nothing only what they—
- Q. No. 2. Did you see him, Red Eagle? A. Yes.
- Q. Where? A. At Batoche.
- Q. What was he doing? A. Carrying arms in rebellion, the same as the rest.
- Q. That is all you know about him? A. Yes.
- Q. Was he armed? A. Yes.
- Q. No. 3, Poor Crow? A. The same—I seen him too.
- Q. No. 4? A. Yes; Red Bean.
- Q. Just the same? A. Yes.
- Q. You saw him frequently armed? A. Yes.
- Q. No. 5, Left Hand? A. I seen him also.
- Q. Where? A. At Batoche and Duck Lake.
- Q. You saw him at Duck Lake on what day? A. 26th March.
- Q. That was the day of the fight? A. Yes.
- Q. Was it before or after the fight you saw him? A. He was just going out—after the fight I saw him, and I saw him before the fight.
- Q. You saw him before the fight, going out where? A. Going out with the rest of them.
- Q. Which way? A. Towards the battle.
- Q. He was going out towards the battle with the other rebels? A. Yes.
- Q. Was he armed? A. Yes.
- Q. And you saw him afterwards? A. Yes.
- Q. On that day? A. He used to be riding my horse around.
- Q. Did you see him afterwards? A. Yes; I saw him frequently after that.
- Q. Where? A. At Batoche.
- Q. What was he doing at Batoche? A. Doing the same as the rest, carrying arms.
- Q. Armed, I suppose? A. Yes.
- Q. Now, did you know these prisoners before? A. I have seen them.
- Q. Before the rebellion? A. No, I don't know. I have seen them, but I don't know them. I know the Cree.
- Q. You knew him before? A. Yes.
- Q. But the other four you did not know before the rebellion? A. No.
- Q. Were there many Sioux there? A. Yes, quite a number. (Interpreted in Cree and Sioux to the prisoners.)

Cross-examined by Mr. Robertson :

Q. When you say you saw these people at Batoche, where was it that you were a prisoner? A. At Batoche.

Q. In the village? A. Yes. I guess you can call it a village, there are four or five houses.

Q. On what days of the month can you tell us did you see these different men at Batoche? A. I could not.

Q. You cannot say that? A. No.

Q. Somewhere about the beginning of May? A. Yes. I seen them on the 10th of April, the first, that is when White Cap's band came in.

Q. Where were you when White Cap's band came in? A. Looking out of a pane of glass in the window.

Q. How many of them were there? A. I could not say. I should think there was about twenty-five or thirty.

Q. Had you ever seen any of them before? A. I seen White Cap. I used to give him rations.

Q. Had you seen any of the others before? I could not say.

Q. You did not recognize any in particular then? A. Yes, I recognized those.

Q. At that time? A. Yes.

Q. You had never seen them before? A. Yes; but I seen them too often afterwards.

Q. Did you recognize them then, when you saw them first? A. No, I did not.

Q. Then you saw them afterwards at different times about the village? A. Yes.

Q. And that is what you refer to when you say that you saw them frequently at Batoche? A. Yes.

Q. How long have you known the Indians? A. About seven years.

Q. And it is a fact is it not that an Indian very rarely moves about without his gun? A. Yes, generally, they have their gun.

Q. Generally, they carry their guns wherever they go? A. Yes.

Q. Now, what arms had these different men that you speak of; you say they were armed? A. Do you mean rifle or shot gun?

Q. Tell us what arms? A. They had their guns.

Q. Which they generally carried? A. The Sioux, principally, have rifles.

Q. They generally carry them? A. Yes.

Q. And they had then just the same guns and rifles that they generally carry? A. Yes.

Q. When you saw them? A. Yes.

Q. That is what you mean by saying that they were armed? A. Yes.

Q. Where were you just immediately before the fight at Duck Lake? A. We were just coming in as they were going out from Batoche.

Q. You were coming in as they were going out? A. Yes.

Q. As who were going out? A. The rebels.

Q. From Batoche? A. No; they had gone the night before to Duck Lake, from Batoche, part of them. There was a guard left on us, we went next morning.

Q. You were a prisoner before that? A. Yes. I was taken on the 18th, and I don't know, I think there was about three hundred started the night before from Batoche and went to Duck Lake, and then on the next morning we were taken over to Duck Lake, and we were just coming into Duck Lake when part of them were going out.

Q. When who were going out? A. The rebels.

Q. From Duck Lake? A. Yes.

Q. You were just being brought in then to Duck Lake when this party of rebels was going out from Duck Lake? A. Yes.

Q. And you say that you saw one of these prisoners there on that occasion? A. Yes; but I did not say I saw the Sioux.

Q. You saw the Cree, No. 5, Left Hand? A. Yes.

Q. You saw the Cree that morning? A. Yes.

Q. Now that was before the fight at all? A. Yes.

Q. You saw a good many other people there coming and going, didn't you?
A. Yes.

Q. Did you go out with them to where the fight took place? A. I went out afterwards.

Q. You did not go at that time? A. No.

Q. You remained at Duck Lake? A. Yes.

Q. When the lot of them went away, you remained at Duck Lake? A. Yes.

Q. How far was it where you remained from where the fight afterwards occurred?
A. I should think it would be about a mile and a half.

Q. How many did you see going out from Duck Lake? A. I think there were about 400.

Q. About 400 went out from Duck Lake that morning? A. Yes.

Q. Now, for all you know, some of those men who went out that morning may not have gone to where the fight occurred at all? A. That is so.

Court. Shall I have this repeated to the prisoner, Mr. Robertson?

Mr. Robertson.—I think not.

JOHN W. ASTLEY SWORN:—

Examined by Mr. Scott:

Q. Where do you live, Mr. Astley? A. Prince Albert.

Q. What is your occupation? A. Surveyor and explorer.

Q. What were you doing on the 17th March? A. If I was to give my evidence where I seen each of these men separately —

Q. I want to commence at the beginning—where were you on the 17th March?

A. In Prince Albert, and I went up with Capt. Moore with a certain amount of special constables and volunteers to Carlton, and when I was at Carlton I went out scouting for Major Crozier through the French settlement, and I was taken prisoner on the 26th March, three o'clock in the morning, at Duck Lake, by half-breeds and Indians, under the leadership of Louis David Riel, in open rebellion against the Queen.

Q. What happened on the 26th March? A. On that same day of the 26th March, after Riel and a certain amount of half-breeds came in from Batoche, I saw that Left Hand.

Q. Were you in the same—? A. I was in the same room, upstairs, with Tompkins, and I saw that Cree, Left Hand, going in the direction of where Riel told me, afterwards, the fight had taken place with the rest of the half-breeds and Indians.

Q. He was going with the rest of the half-breeds and Indians in the direction—? A. Of where the fight took place.

Q. You know a fight took place? A. Yes; Riel came up that same day and told me that a fight had taken place near Duck Lake.

Mr. Robertson.—That is not evidence.

Mr. Scott.—I think the statement of Riel is evidence as to what had been done.
Court.—Riel's statement of a fight having taken place is evidence.

By Mr. Scott:

Q. Had you any other means of knowing that a fight had taken place? A. There was a wounded volunteer brought up into the room, Charlie Newett, and I had to dress his wounds for him.

Q. Any other reason for knowing? A. Except seeing the half-breeds going out and returning.

Q. And what did they do after they returned, or did they do anything? A. No, Riel just came up and told us, and that was all, and then of course some of the volunteers came from Prince Albert and took the bodies away the following Sunday, and I was moved to Carlton, and from that taken to Batoche, and I arrived there the 3rd of April, and that was the first time, from that on, when I saw these Sioux Indians.

Q. Then you were imprisoned in the same prison with Tompkins until 12th May? A. 12th May.

Q. What happened on the 12th May? A. On the 12th May I carried a note out for Riel to General Middleton, and there was firing going on at that time, and I saw that.

Q. What did you do on that day? A. I rode out first of all to the general.

Q. Riel sent you with a note to General Middleton? A. Yes.

Q. Took you out of the place where you were confined and sent you with a note to General Middleton? A. To General Middleton.

Q. How did you get to General Middleton? A. I rode out on horseback.

Q. What had you to go through to get there? A. I had to pass through the rebel lines.

Q. Were they fighting or not at the time? A. There was fighting going on at the time.

Q. You passed through the rebel lines and got to General Middleton? A. Yes.

Q. And after you got there what did you do? A. I took a note back from him to Riel.

Q. Going through the lines the second time? A. Second time, yes.

Q. And then what happened after that? A. I talked to Riel some time and took another note out about two o'clock in the afternoon.

Q. To whom? A. To the general, the second time.

Q. You passed through the lines how many times? A. Three times.

Q. Going between Riel and General Middleton? A. Yes.

Q. On the 12th May? A. On the 12th May.

Q. Were they firing? A. They were firing when I went out the first time, and the firing stopped from half-past nine or ten till half-past nine. The last time I went through, there was firing all the time.

Q. Then they were not firing the first time? The first time they were firing, but the firing stopped when I was talking with Riel.

Q. But the second time you went through? A. They were firing.

Q. Where did you see No. 1, The Hole? A. I saw him at Batoche when I arrived there about the 3rd April.

Q. What was he doing? A. In arms from that day until I saw him the last day.

Q. How many times would you see him during that time? A. I used to see him very nearly every day in front of our window.

Q. Did you see him anywhere else? A. The last day I saw him when I was coming back the second time and looking for Riel, on horseback. I saw him with a gun in his hand among where the half-breeds and Indians were. The troops were firing, and of course they were firing, but I could not see him firing at the time.

Q. Who were firing? A. The half-breeds and Indians and troops.

Q. The half-breeds and Indians with whom No. 1, The Hole, was with at the time? A. Yes.

Q. Where were they? A. He was more to what would be my left, going out from the half breed camp.

Q. How far from the settlement? A. About half-way between the head of the rebel settlement and the general's, among some sand-hills when I was looking for Riel, that is where the Sioux were situated.

Q. They were among some sand-hills? Were there any rifle pits in the neighborhood of Batoche? A. There were rifle pits in all directions around there.

Q. Were there any near where these men were that you saw with The Hole? A. There were some a little further up, near where the troops were.

Q. But there were a number of rebels with him in that place? A. Yes, scattered all through.

Q. Was that a place for a man who would want to keep out of the fight? A. No, not a very good place to keep out of the fight.

Q. Not the best place that he could have found? A. No, not the safest place.

Q. Was he armed on that occasion? A. He was armed at that time.

Q. No. 2, Red Eagle, where did you first see him? A. I saw him about the 10th April. He belongs to White Cap's band. They were not there when we arrived at

Batoche's first, and I saw him off and on, armed the same as the rest of them during the time, up to 12th May, and then I saw him in a rifle pit lower down the river where White-Cap's band was situated when I went out the first time.

Q. You saw him in a rifle pit? A. Standing up at that time.

Q. When you went out the first time to General Middleton? A. Yes.

Q. What was he doing? A. Several of them standing around and the remainder you could see with part of the head over the pit. I could see some few of them standing around near their pits, but the majority of them would have their heads poking up out of the pits every now and then.

Q. Was this man in a pit? A. Standing alongside of the pit when I saw him.

Q. Was he armed? A. Armed, at that time.

Q. How far would that be from the settlement, from the houses? A. It would be very near half a mile below where we were imprisoned.

Q. And how far from General Middleton's lines? A. From where the troops were at that time and the General himself, it would be about 400 yards.

Q. And about half a mile from Batoche? A. Yes.

Q. No. 3, Poor Crow, where did you see him? A. I saw him the same time I saw No. 1 there.

Q. About the 3rd April? A. About the 3rd April when we arrived there, and I saw him about the same place on the last day.

Q. Where was that? A. Among those sand-hills when I was coming back from the second trip to General Middleton. I was looking for Riel then and I had to come backwards and forwards through their lines looking for him.

Q. That was the second passage through the lines? A. My second trip back.

Q. What was he doing there? A. Just around about the same as No. 1.

Q. How far were those sand-hills that you saw No. 1 and No. 3 in from the houses? A. About half way, perhaps about 200 yards.

Q. About half way between the houses and the general's lines? A. Yes, the houses where we were prisoners and the general's lines.

Q. No. 4? A. Red Bean, that is I saw him about the 3rd, the same time that I saw the rest of them there, armed off and on till the end of the time, but I did not see him the last day.

Q. Nor did you see him before the 3rd? A. No, I did not see him at all before.

Q. That is all you can say about him? A. That is all I know about him.

Q. That you saw him there armed in the rebel camp? A. In the rebel camp.

Q. No. 5, Left Hand? A. I saw him first at Duck Lake on the 26th March, going in the direction where the fight took place, or where Riel told me the fight had taken place, with the rest of the half-breeds and Indians, and I saw him off and on after that.

Q. Then, he was with the crowd of half-breeds and Indians that were going out in that direction? A. Yes.

Q. Was he armed? A. He was armed at that time, and then, the last day at Batoche's I saw him at the same place as I saw One Arrow, when I went out the first time.

Q. Where did you see him? A. It was when I was going out the first time, had to pass through where he was standing with the rest of them on the side of a hill. There was some of the same men firing at the troops at that time. They would sit up on top of the hill and fire, and then fall back again.

Q. Did you see him firing? A. No, I did not see him firing.

Q. He was with others who were firing? A. Yes.

Q. And whom you saw firing at the troops? A. Yes.

Q. Was he armed? A. He was armed at that time. Riel went with me and passed me through them.

Q. Did you know any of these before? A. I knew Left Hand, No. 5, and I seen No. 2, Red Eagle, but I never saw the others before I saw them at Batoche. (This is interpreted in Cree and Sioux to the prisoners.)

Cross-examined by Mr. Robertson :

Q. You saw a great many Indians during that time, Mr. Astley, while you were a prisoner? A. Yes, of course, I did. Yes.

Q. A good many hundreds of them? A. Well, I saw between half-breeds and Indians, between 400 and 500.

Q. And most of them you had never seen before? A. A great many of them. Of course, some of those I saw before, but not the rest of them.

Q. You say you saw No. 2, Red Eagle? A. In White Cap's band I have seen him before, and No. 5, Left Hand.

Q. You say you never saw the others until you saw them at Batoche? A. Till I saw them at Batoche.

Q. Yes, except Left Hand and No. 2 Red Eagle, you had never seen them until you saw them at Batoche? A. I did not see the others before Batoche.

Q. When was it you had seen No. 2, Red Eagle, before? A. I have seen him with White Cap's band around through Prince Albert district. He is his son-in-law, I believe.

Q. How many of those large bodies of men that you saw there are you prepared to identify? Well, out of the lot that were in the barracks, those are the only lot that I would swear to—those few.

Q. These are the only few that you would swear to? A. Yes. There are a certain amount more outside that I might swear to, but none of these are among the barracks men.

Q. I suppose you have heard of the many very extraordinary cases of mistaken identity, mistakes people have made about the identity of people? A. Well, I have got certain reasons to remember certain men, and I am not very likely to forget them.

Q. Then it is because you have certain reasons for remembering? A. That I remember those few, more than others.

Q. Tell us what is the certain reason for which you remember No. 1? A. I was out talking to Riel one day just after the Fish Creek fight, and Riel told me, in talking to me, to keep my eye on some man that was standing behind me with a gun, for fear he might shoot me. So I remember him quite right.

Q. And what was the special reason for No. 2? A. Because he belongs to the White Cap band, and I have seen him.

Q. No. 3? A. Because I have a particular friend among them there named Little Crow, and I heard the name "Crow" used, and I thought it was the same man, but one of the half-breeds pointed him out to me not as Little Crow and I knew the difference. That is the way I came to remember him.

Q. No. 4, Red Bean? A. I just remember him, being in front of our room pointed out as being Red Bean; he was pointed out to me by some English speaking French half-breeds. He used to be in front of our window—the prisoners' window. They used to come and dance in front of our window every day.

Q. No. 5, Left Hand? A. Of course I knew him as belonging to One Arrow's band. I have known him for some years.

Q. I just wanted to be sure there was no mistake about them. Now, which of these do you say belonged to White Cap's band? A. Red Eagle, No. 2.

Q. Is that the only one? A. He is the only one that belongs to White Cap's band to my knowledge.

Q. Do you know anything about his previous character? A. Well, as far as the band is concerned, I have always heard them well spoken of.

Q. White Cap's band has been always well spoken of? A. Yes.

Q. Do you know anything about this man in particular against him? A. Except just as I say that I saw him off and on, and then on the last day standing outside with a rifle.

Q. Then can you tell me anything about the character of the others, taking them one after the other? A. The other three Sioux—I know nothing about their character, and I don't know anything more about them than seeing them armed at Batoche right along.

Q. And Left Hand? A. Well, he is like One Arrow. All his band are not what you would call a good specimen of Indians.

Q. Well, they don't work very hard? A. No, they don't.

Q. But that is about the worst you can say against them? A. That is about as bad as it can be.

Q. That is your idea; you are a very energetic man? A. That is the worst I know of them. I know nothing against his character, anything worse than that.

Q. Now, when you were riding through the lines on those occasions you were pretty excited, weren't you? A. No, I can't say I was excited. I was a little mad.

Q. You don't consider you are excited when you are mad? A. No, I was not at all excited.

Q. The bullets were flying pretty thickly about you? A. Well, I did not notice them at all. I did not bother my head about them.

Q. And yet you were not excited? A. No, I was not at all excited, I was just mad, that was all.

Q. That is rather a strange state of mind. I would like to understand it. A man riding through between two lines where firing was going on, actually not noticing the firing. Do you say that? A. Well, I had something else to think about. I never thought once about it at all the whole time I was travelling except perhaps an odd man would take a shot at me a little too close.

Q. Then you are not prepared to swear there was firing going on? A. I seen smoke. I heard bullets whistling around in every direction, and what I mean to say is that I was not excited about it.

Q. Now, did you notice the firing or did you not? A. I noticed it in the respect that I knew the firing was going on by the smoke and the whiz of the bullets, but it did not excite me at all.

Q. You were running the gauntlet? A. I don't know what you call the gauntlet. I was doing my duty.

Q. You were running the gauntlet of those two fires. You were riding out between the opposing lines? A. Certainly.

Q. Exposing yourself to the fires of both lines? A. Yes.

Q. You were doing that, and you were very anxious at the time to bring about a parley, and to stop that firing? A. Yes, for the sake of the prisoners and Riel.

Q. That was the purpose, and you were running about trying to find Riel when you saw them, these men? A. When I saw these two men, I was perhaps half-an-hour riding backwards and forwards before I could find him at all that time.

Q. And you saw a great many other Indians that day? A. Yes; but some I could not remember again. I might remember them if I saw them, but I could not swear to them; but those two I remember all right enough.

Q. It is the only two that you remember? A. That is all I remember the second time. The first time I saw No. 2, the second time I saw No. 1 and No. 3.

Q. On the first time the circumstances were very much the same, there was firing going on? A. Firing going on, but it was more distant.

Q. You were riding through the lines just the same? A. But it was in a different direction.

Q. The same thing going on? A. Yes.

Q. A hot fight going on? A. It was not very hot at that time.

Q. Now, Mr. Astley, don't you think that it is just possible you may be mistaken about these men? A. If I had not known them for those same reasons before that, I would perhaps not have remembered them so well, but when I knew those same men for those same reasons before then, and had reason to know them when I passed them and noticed them; there were other Indians I passed, not noticing who they were at all.

Q. I only want your honest opinion about it, and I know that is all you will give us; when you think it quietly over, don't you think it is rather stretching a point to say that you can be perfectly positive that these identical men were there, that you may not have seen somebody else and mistaken them for these in the

excitement of the moment? A. I don't know; if I saw you some place I would remember your face again, and those men can be distinguished from other Indians.

Q. You might see somebody else like me and take him for me, because, when a man is familiar with one face and sees another that is like it, another face; when he is in a state of excitement his mind naturally jumps at one idea—that is the man I know? A. It may be with some people.

Q. You have made that mistake yourself, haven't you, with people you fancied you knew, and you found out you were mistaken? A. I may have in an odd case; but then I had not the same reason to remember those people that I had to remember these.

Q. Were you thinking of remembering these people then? A. No, not at that time; but I had certain reasons for remembering them, and the moment I saw them I remembered their faces; but others I did not remember.

Q. Had you any more reason for remembering them than you had, for instance, on other occasions when you have told us you have met people that you mistook for some person that you knew well? A. I don't know any case where I have done that, but still it may have happened.

Q. May it not be that you may be mistaken, just be mistaken in that sort of way about these men. A. Well, I would not admit it, because I feel perfectly positive of it.

Case for the Crown closed.

No evidence for defence.

Mr. Robertson.—I am not going to address the jury, and I leave it for your Honor.

Court.—Gentlemen of the jury. From what you have heard those two witnesses state in that witness-box, you are called upon to pronounce whether or not exercising your province as a jury—whether or not as I say, you are conclusively convinced that all or any one or more of these men who are here before you were implicated in the rebellious acts which are described and set forth, either one or more of the rebellious acts which are set forth in the charges preferred against them? The charges are generally against them all, and they say they were at Duck Lake. Well, the evidence certainly does not show, does not establish that all of them were at Duck Lake. The utmost that could be said upon the evidence, is that the Left Hand, the Cree, was at Duck Lake, but not so with regard to the other overt act which is charged at Batoche, for there, if reliance is to be placed upon the evidence, I think you have evidence which supports it.

In disposing of this case, however, gentlemen, recollect that they are entitled to just as much consideration as if they were not Indians. They are entitled to the same consideration as any white man, or any person who is under the protection of the British Crown, and they ought not to be convicted, no conviction ought to take place unless a jury is convinced, conclusively, and as a result from considering, undoubtedly in their minds, that they were implicated.

If, therefore, you have a doubt as to the reliability of the evidence, or that the witnesses could be mistaken, you think, and a reasonable doubt at that, why give them or give any of them the benefit of it. If, on the other hand, you are conclusively convinced that they were there, then as deliberately say so.

I don't see that I need detain you longer. I shall ask you to retire and consider, and you will then say how you find them all, or any of them.

Mr. Scott.—I don't know that your Honor has made it sufficiently clear to the jury, that as to each one of the prisoners, if they find him guilty of either one of the overt acts, there will be a conviction.

Court.—I think I have. Gentlemen, counsel for the Crown doubts whether I have sufficiently explained to you. Guilt as to any one of the charges, or any one of the overt acts charged is sufficient to convict them upon proof. If you are convinced by proof which has been offered to you of complicity in any one of these charges, that is sufficient to convict. I drew your attention to each of the charges for the purpose of pointing out that with regard to Duck Lake there was only one of them identified.

Then, at the same time, I also drew your attention to the fact that if the witnesses were to be believed, all of them were at Batoche. Now, what the learned counsel who has charge of the prosecution seemed to think was, that the verdict should be distributive; that is not necessary, it is not so. If they're implicated in any one of these overt acts charged, a verdict of "guilty" should be entered. I think I have put it plain enough.

Mr. Scott.—I think your Honor misunderstood my objection. I did not pretend to say that at all. I did not mean that. I did not think the verdict should be distributive.

Jury retire at 11.30 and return at 12 noon, verdict, "guilty," with recommendation to mercy.

Court here adjourned till 25th September instant.

QUEEN VS. KAH-PAH-YAK-AS-TO-CUM.

CANADA:
North-West Territories. }

The thirteenth day of August, in the year of our Lord one thousand eight hundred and eighty-five, at the town of Regina, in the North-West Territories, before Hugh Richardson, Esquire, one of the stipendiary magistrates of the North-West Territories, exercising criminal jurisdiction under the provisions of the North-West Territories Act, 1880;

Kah-pah-yak-as-to-cum, otherwise called "One Arrow," you stand charged on oath before me, as follows:—

CANADA:
North-West Territories. }

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario, in the Dominion of Canada, chief of police, taken the thirteenth day of August, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:—

1. That Kah-pah-yak-as-to-cum, otherwise called One Arrow, not regarding the duty of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our said Lady the Queen should and of right ought to bear towards our said Lady the Queen, on the twenty-sixth day of March, in the year aforesaid, and on divers days as well before as after that day, together with divers other evil-disposed persons, to the said Alexander David Stewart unknown, feloniously and wickedly did compass, imagine, invent, devise and intend to levy war against our said Lady the Queen within Canada, in order by force and restraint to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention then feloniously and wickedly did express, utter and declare, by divers overt acts and deeds hereinafter mentioned, that is to say:—

In order to fulfil, perfect and bring to effect his felonious compassing, imagination, device and intention aforesaid, he, the said Kah-pah-yak-as-to-cum, otherwise called One Arrow, to wit, on the twenty-sixth day of March, in the year last above-mentioned, on divers other days and times as well before as after that day, at the locality called Duck Lake, in the North-West Territories of Canada aforesaid, feloniously and wickedly did conspire, consult, confederate, assemble and meet together with divers other evil-disposed persons, to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further, in order to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Kah-pah-yak-

as-to-cum, otherwise called One Arrow, afterwards, to wit, on the twenty-sixth day of March, in the year aforesaid, and on divers other days and times as well before as after that day, at the locality called Duck Lake, in the North-West Territories of Canada aforesaid, together with divers other evil-disposed persons to the said Alexander David Stewart unknown, armed and arrayed in a warlike manner, that is to say, with guns, rifles, pistols, bayonets and other weapons, being then wickedly and feloniously assembled and gathered together against our said Lady the Queen, most wickedly and feloniously did levy and make war against our said Lady the Queen, at the said locality known as Duck Lake, in the said the North-West Territories of Canada and within this realm.

And further, to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Kah-pah-yak-as-to-cum, otherwise called One Arrow, afterwards, to wit, on the ninth day of May, in the year aforesaid, and on divers other days and times as well before as after that day, at the locality called Batoche, in the North-West Territories of Canada, aforesaid, feloniously and wickedly did conspire, consult, confederate, assemble and meet together with divers other evil-disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further, in order to fulfil, perfect and bring to effect his felonious compassing imagination, invention, device and intention aforesaid, he, the said Pah-kah yak-as-to-cum, otherwise called One Arrow, afterwards, to wit, on the ninth day of May, in the year aforesaid, and on divers other days and times, as well before as after that day, at the locality called Batoche, in the North-West Territories of Canada, aforesaid, together with divers other evil-disposed persons to the said Alexander David Stewart unknown, armed and arrayed in a warlike manner, that is to say with guns, rifles, pistols, bayonets and other weapons, being then wickedly and feloniously assembled and gathered together against our said Lady the Queen, most wickedly and feloniously did levy and make war against our said Lady the Queen, at the said locality known as Batoche, in the said North-West Territories of Canada, and within this realm; in contempt of our said Lady the Queen and her laws, and to the evil example of all others in the like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

Sworn before me the day and year above mentioned at the town of Regina, in the North-West Territories of Canada.

A. D. STEWART.

HUGH RICHARDSON,

Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice that you have the option of being tried by a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way and without the intervention of a jury, pursuant to the Statute of Canada, 43rd Victoria, chapter twenty-five, section seventy-six, sub-section five, as amended by the Statute of Canada, 48-49 Victoria, chapter fifty-one. Which do you elect?

Clerk opens court, and reads to prisoner the charge against him. What say you; are you guilty or not guilty? Prisoner answers "not guilty."

Clerk.—Are you ready for your trial?

Mr. F. Beverley Robertson, counsel for prisoner, says he is quite ready.

Clerk (to the prisoner).—These good men whom you shall now hear called, are those that are to pass between our Sovereign Lady the Queen and you. If therefore you will challenge them, or any of them, you must challenge them as they come to the book to be sworn, and before they are sworn, and you shall be heard.

A jury of six is now sworn.

Clerk reads indictment to the jury. Upon this charge the prisoner at the bar has been arraigned, and upon his arraignment he has pleaded "not guilty." Your inquiry therefore is to enquire if not guilty, and hearken to the evidence.

Mr. Casgrain (for the Crown).—May it please the court, gentlemen of the jury: The charge which you have just heard read puts this man before you on an accusation of treason-felony. The facts which will be brought out in evidence would probably have warranted the Crown in accusing this man of the highest crime which is known to the law, that is treason, but the Crown, believing that the Indians in this country have an indefinite notion of the allegiance which they owe to their Sovereign, it was thought proper to bring this man before you on an accusation for a crime of a lesser degree than that of treason. As you have heard the charge read to you, several overt acts are laid against this man. He is accused of the crime of treason-felony, and if in the evidence any of these overt acts are sustained, these overt acts sustained by the witnesses, any one of them sustained, then the crime is brought home to him, and there will be probably no difficulty about your verdict.

We will endeavor to prove before you that on divers days mentioned in the charge the locality known as Duck Lake, and the locality known as Batoche were in a state of insurrection, that is, that the people, that the half-breeds, in that locality were in a state of rebellion against the Government. Upon this point we think that there will be no difficulty in establishing that there was an insurrection.

One Arrow, the prisoner now before you, was the chief of a band of about 15 braves, and his reserve was situated near Batoche. He is a treaty Indian, and, as the charge goes on to say, not regarding the allegiance which he owed to the Government and to the Queen, not regarding that treaty which passed between him and the Government of this country, he joins the rebels at Batoche and at Duck Lake. He is seen almost continuously during the period which elapsed between the 26th March and the 9th, 10th and 11th days of May, 1885, in arms with the other rebels. He joins them and fights with them at Duck Lake, and he joins and fights with them at Batoche.

Now, gentlemen, if the Crown proves these overt acts, or any of them, as I have already said, you will have no difficulty in coming to a conclusion. The case is a very simple one in our minds. The evidence will not be long. These Indians having a treaty with the Government and being treated by the Government of this country as probably no other Indians are treated by any Government, must be made to understand that if they are thus treated by the Government they must stand by the Government, they must maintain their allegiance to the Government, to the country and to the Queen, and they must also understand that if any breach of allegiance takes place amongst them, that they will be visited by punishment, and that any crime against the laws committed by them will be put down by the strong arm of the law.

Now, gentlemen, we will go into the evidence, and it will be short, as I have already said. I think the case will not take long, and we request your attention for a very short time.

JOHN W. ASTLEY, sworn:—

Examined by Mr. Osler:

Q. Where do you live, Mr. Astley, and what is your occupation? A. Prince Albert, and I am a surveyor and explorer. (Interpreter states this to prisoner in Cree.)

Q. Do you know, Mr. Astley, whether there was existing, in the districts of Batoche and Duck Lake, during March, April and May of this year, any armed rebellion against constituted authorities? A. Well, I think so. I was a prisoner there from the 26th March till 12th May.

Q. You were a prisoner? A. Yes.

Q. A prisoner in whose custody? A. Louis David Riel's, and he was one of his men.

Q. The prisoner was one of his men? A. Yes.

Q. Tell the court and jury shortly what was the nature of the organization whom they were opposing? A. Well, as far as I know, I was taken prisoner—

Mr. Robertson.—I would ask my learned friend to ask the witness to state definite facts and not to state in a general way.

Mr. Osler.—I am going on to prove the existence generally of a rebellion, and then I am going to bring it home to this man as participating in it. I cannot do it otherwise, I submit.

Mr. Robertson.—The witness has already made one broad statement.

Mr. Osler.—Not in answer.

Mr. Robertson.—Certainly not in answer; but the witness should be careful to state only facts within his own knowledge, and he should not state in answer to a general question matters which are only matters of opinion. He seems a little prone to do that.

Mr. Justice Richardson.—I thought it was from his own knowledge.

Mr. Osler.—I think it will appear it was of his own knowledge.

Q. State, as far as you know yourself, the nature of the organization and rebellion, who were they rebelling against and who were they opposed to? A. Well, as far as I know, I was taken prisoner 26th March, at Duck Lake, by Louis David Riel, who was in command of the breeds, the half-breeds, Cree Indians and Sioux Indians.

Q. What was the object of the armed force? A. It was against the Government, the Hudson Bay Company and the police. (This is interpreted to the prisoner in Cree.)

Q. Do you know of your own knowledge that the prisoner was one of that armed force? A. I saw him at Duck Lake, the first time, the morning of the 26th March.

Q. In what condition? What was he doing? A. With a band of armed men belonging to Riel. That was on the 26th March. (This is interpreted to the prisoner in Cree.)

Q. Did you see him at any subsequent date? A. The next time I saw him was after we moved from Carlton to Batoche. After we were at Batoche I saw him, off and on, all the time I was prisoner there.

Q. What was he doing? A. Around among the other men. He is chief over a certain band of Indians, and whenever those Indians were used at all he was the man that looked after them, as far as I could see.

Q. When did you see him? A. The last day at Batoche, 12th May, I saw him. Of course, I saw him armed off and on; prisoner from 3rd April till 12th May.

Q. You, as a prisoner, saw him armed on and off from 3rd April till 12th May? A. Yes.

Q. Where was that? A. At Batoche's. (The interpreter states this to the prisoner in Cree.)

Q. Did you see him do anything particular with reference to the contest that was going on? On the last day, 12th May, when I went out to see the general with the first note, I passed his band of Crees, and some of the other Crees when the general was making an attack on the breeds on the left flank, and he was on the side of the hill with his Indians and other bands of Indians, and Riel himself went up with me to the Indians. I saw him there as I was going, and as I was returning with the first message.

Q. Doing what? A. Just defending that hill from the attack the general was making from the left.

Q. Defending the hill from an attack of General Middleton, you mean? A. Yes; General Middleton.

Q. That he was making from the left? A. Yes. (The interpreter states this to the prisoner in Cree.)

Q. That, I understand, was on the 12th May? A. 12th May, about 9 or half-past 9 in the morning.

Q. What was he doing? A. He was there with his braves, or with his followers.

Q. How many? A. There was most of his band there, and a lot of other Crees—about 40 or 50 in that same lot.

Q. What shape were they in? Had they anything with them? A. They were all armed, every one of them, as far as I could see.

Q. What were they doing with their arms? A. Just now and again, when some of the volleys were fired from the general's side, one of them would go up on the brow of the hill and fire in return.

Q. Did you see that? A. I saw that when I was passing and going.

Q. There was firing from the hill, from what you understood to be the general's forces? A. From his men, about 400 yards away, and then some Indians would go up on top of the brow of the hill and fire back again. Those were his men, and part the other Crees and Indians.

Q. What was he doing there? A. At the time I saw him he was standing there. They could not all fire at once; there was a kind of a hill scooped out, and then as they would go up on top of the hill they would fire and come back; but when I came back they had ceased firing.

Q. Do you know, from anything you saw on either occasion, who was in command? A. Among the Indians or the breeds?

Q. Among the Indians? A. Oh, I think I don't know anything about it.

Q. I am not speaking of the whole forces, but who commanded this band of Indians? A. The chief was supposed to command his own band.

Q. Never mind supposing? A. I don't say for certain; I could not tell.

Q. Did you ever see the prisoner doing anything with his band? No more than every time when his band would be taken and sent off on any scouting party. Riel himself personally would see him and speak to him, and then the prisoner would speak to his men, and they would go off and do as they were told. That was the same way with all the chiefs.

Q. What did you see done? A. Whenever the Indians were sent out, previous to them being sent out in any direction as scouting parties, or off to Fish Creek, for instance, Riel was seen talking to the chiefs.

Q. Speaking generally, did you ever see Riel talking to the prisoner? A. I have seen him talking to One Arrow himself.

Q. Then have you immediately after that seen One Arrow talk to the Indians? A. I have seen him talk to his men.

Q. What have you seen after that talking? A. Then I have seen those men go away and do whatever—I could not hear what they told him, but I have seen them go away in a body.

Q. Then after Riel talked to the prisoner and the prisoner talked to his men, you have seen the men go away in a body? A. Go away in a body.

Q. In what way? A. Before Fish Creek. They were sent off there one time.

Q. How were they when they went away as to arms? A. They were all armed. (The interpreter states this to the prisoner in Cree.)

Q. Now you know who commanded the whole movement? A. Yes.

Q. Now do you know what the object of that movement was, from anything that the leader told you? A. Yes; from what Riel told me himself. Of course he was after, you might say, his own ends. That is what he was after.

Q. What was the object of the movement as against the Government? A. It was supposed to be for the French half-breeds' claims.

Q. How were they carrying out that claim; in what way? A. By rebelling to get their rights, as far as I—

Q. Had they any prisoners; had they taken any prisoners? A. There were seven in the cellar besides myself, and some in the other rooms.

Q. What were those prisoners held for? A. Well, just from what he admitted to me, he wished to keep them so that if himself and his council got in danger, to make use of them in making terms.

Q. Were the seven prisoners kept during all the time you were in prison? A. Either in my room or with me all the time. Six besides myself.

Q. Well what forces were they opposing—fighting against? A. Against the troops of the Government. First against the police and volunteers and then against the troops under General Middleton.

Q. The Canadian volunteers? A. Canadian volunteers.

Q. And the Canadian mounted police? A. Mounted police. (The interpreter states this to the prisoner in Cree.)

Q. Now were you present on any occasions on which there was fighting between the two armed forces? A. Yes; on the 12th May, the last day.

Q. You were present? A. Yes.

Q. And what went on on the 12th May that you saw? A. Well, where I mentioned that I saw him the first time in the morning at the attack of the general—

Q. You told us that particular object, but I want to know what was the nature of the general fight at Batoche on the 12th day? A. Between the half-breeds and Cree Indians and Sioux, and the troops and volunteers under Gen. Middleton.

Q. Had that organization anything to do with the organization of which Louis Riel was chief? A. He was the leader of the breeds, the Crees and Sioux Indians.

Q. Were you present at what is known as Duck Lake? A. I was a prisoner at that time.

Q. Do you know anything of that contest? A. They came upstairs after the thing was over, and Riel himself claimed that he was the—called on his own men to fire, and was proud of his victory, as far as that went.

Q. Did anything else take place that you know of on that occasion which would indicate a contest? A. As far as talking about Indians, one time he told me the reason he had called the Indians in was because certain people had not joined him.

Q. Well, do you know anything about the fight at Duck Lake going on from anything that you saw? A. Yes; I heard a cannon shot; that was all I heard. I saw the troops going out and I saw them returning.

Q. What troops? A. Half-breeds and Indians.

Q. You saw them going out in what way? A. In the direction of Carlton and in the direction the police were coming from.

Q. Did you see the prisoner there that day? A. I saw him there that morning just previous to when they came.

Q. What condition was he in as to arms when you saw him? A. Well, I would not like to say what he had that day.

Q. What was the assembly at Duck Lake for on that occasion? A. Just opposing for their rights; that is what it was supposed to be, against the police and volunteers.

Mr. Robertson:

Q. You supposed that? A. No.

Mr. Osler:

Q. Did you see anybody brought in after the fight? A. There was a wounded prisoner brought in, and I dressed his wounds, one of the wounded volunteers.

Q. Brought in after the contest? A. Yes, after it was over, and I dressed his wounds for him.

Q. Who asked you to dress his wounds? A. Well, I may have offered to do it when Riel brought him up.

Cross-examined by Mr. Robertson:

Q. Mr. Astley, it was you that so bravely carried the messages between Riel and General Middleton on the 12th May, I believe? A. Well, I had the pleasure of doing that.

Q. And it was while you were behaving in that gallant way that you saw the prisoner, as you have told us? A. That is where I saw him at Batoche.

Q. You have lived a good while in that neighborhood, have you? A. Very nearly four years.

Q. Do you know the Indians in that neighborhood pretty well? A. Well, I know most of them; I know most of the chiefs.

Q. Have you known this man, the prisoner? A. I have seen him off and on ever since I have been in the country.

Q. Have you ever had any transaction with him? A. No, I only stopped in the reserve perhaps once or twice passing through.

Q. Do you know what character he has always had up to the time of this rising? A. Well, not a very good character as far as I have always heard.

Q. Now, what did you ever hear against him? A. Well, that he was more fond of loafing around than working; of course that may be a characteristic of the Indian.

Q. Was that the worst you ever heard of him? A. Well, I never bothered much; I never heard anything except that. I heard in plain English that he was a worthless Indian.

Q. You have heard that about a great many other Indians, haven't you? A. Well, a few, his brother-in-law in particular.

Q. That is your opinion of most Indians, isn't it? A. No, it is not.

Q. Are there many Indians you think are not worthless? A. Yes, there are some of the other chiefs in that part of the country that I would say a good word for.

Q. But that is the worst you can place or tell us against this man? A. Yes, that he is a worthless hound.

Q. Now where was the prisoner the morning of the 26th March, when you say you saw him at Duck Lake? A. When Louis David Riel came in from Batoche in the morning after I had been taken prisoner, I saw One Arrow and some of the other Indians coming in in the same direction with the same body of half-breeds.

Q. They came in with the same body of half-breeds? A. With the same body of half-breeds.

Q. That was all you saw of him on that day? A. On that day—yes.

Q. Then you saw him again while you were a prisoner at Batoche? A. At Batoche's—yes; that would be from the 3rd April till the last day.

Q. How often during that time did you see him? A. Oh, perhaps every day or every second day; you might say every second day to be safe.

Q. Will you swear positively you saw him every second day? A. Well, he was in a room underneath; that is where he used to stop part of the time, and he used to go in and out there, and I might see him perhaps ten times one day and not notice him the next. I will swear positively I saw him over thirty times during that time.

Q. Now that was between what? A. 3rd April and 12th May.

Q. So you must have seen him pretty nearly every day? A. No, that may have been four or five times one day and perhaps the next day I would not notice him.

Q. Where were you during that time? A. A prisoner, part of the time up stairs over the room where some of the Indians used to sleep.

Q. At the village in Batoche? A. At the village in Batoche.

Q. How far back from the rifle pits was that? A. There were some rifle pits further down the river, some 250 yards from the house.

Q. How far was it from the front line of rifle pits that were afterwards taken at Batoche? A. The furthest, at right angles to the houses and parallel to the river, would be about 300 or 400 yards; that would be the front row rank.

Q. Was that the line close to the general? A. Yes.

Q. About 400 yards? A. About 400 yards.

Q. From where you were? A. From where we were—yes.

Q. And it was during the time that this prisoner was in the same house that you were down stairs? A. It was during the same time, from the 3rd April until the 12th May.

Q. Now where was he on the 12th May? A. I saw him on that day when I was carrying the first message down on the outside row of rifle pits.

Q. Where was he on the 11th? A. I don't know; I was in the cellar on the 9th, 10th and 11th.

Q. So you cannot say anything about the prisoner's movements during those days? A. No.

Q. All you know about his movements during that time is that you saw him standing doing nothing as you were on your way back? A. He was with his band.

Q. With the Indians? A. Yes.

Q. But he was doing nothing himself? A. He was not shooting at that time.

Q. Did you hear him say anything to his men? A. No, I did not take very long passing. Some of them would go up and fire and come back again.

Q. You don't understand Cree? A. No, I don't.

Q. How often were you a witness to Riel speaking to the prisoner? A. Well, I could not say for certain, perhaps about ten or fifteen times—ten times say, that you would see him just talking to his men and then the men would be sent off and would make small scouting parties—his tribe.

Q. They would go off some place? A. They would go away to Fish Creek. All the Indians were sent off there, and he would have to speak to each chief, like White Cap, with his men and another chief. I know the way the Indians work. The chief has got the whole run of them.

Q. I am not asking you about the other chiefs, I ask you to tell us on how many occasions you saw Riel talking to this prisoner as you have told us? A. Well I am certain about five different occasions.

Q. Now, when was the first time? A. The first one, as far as I can remember, was some excitement expected from Prince Albert. I was out talking to Riel at the time, he spoke to One Arrow and he took his men with him and went down towards the ferries as if they were going to cross the river. That was when I was out of doors.

Q. That is all you know about that? A. That time, yes.

Q. What was the next time? A. The next time, as far as I can remember, he went talking out in front of the window and I saw him go up and speak to him, and then you could see him getting his men together, and then they went down the river, about in the same direction.

Q. Down the river? A. Yes, as if they expected something down the river.

Q. Then the third time? A. That will be the third time, twice in that same way, that they went in the same direction. And then just previous to the Fish Creek fight Riel had a talk, where I was watching from the window, and some of the other chiefs, and then this man at the same time, and then his band went off in the direction of Fish Creek. That would be the fourth time.

Q. Did he guide them? A. Of course I could not see him. I did not see him. He started at the time with his men from there, but I don't know whether he went to Fish Creek. I was not at Fish Creek.

Q. You don't know where any of them went? A. No. The last day when Riel went with me personally—

Q. I want to get the different occasions on which you heard this taking place? A. That is the fourth time.

Q. That is all you can tell us about each of those occasions? A. Yes.

Q. What was the fifth time? A. The last time when I went out with them—No, Riel went with me personally, and in speaking to the Indians right there on that side of the hill, instead of telling a whole lot of Indians what I was doing, he told One Arrow himself.

Q. You don't know what he said to him? A. No, I don't understand Cree, and when I came back of course I saw him in the same position again, and they told him not to shoot me, or something.

Q. Was One Arrow painted on that occasion? A. Not that I noticed.

Q. Have you been much on One Arrow's reserve? A. Oh, I have passed through the reserve off and on every year.

Q. There was a road through that reserve wasn't there? A. A winter road.

Q. And a good deal of traffic on it? A. Yes, a good deal of traffic during the winter months.

Q. And you never heard anything worse against One Arrow than that he was worthless? A. A worthless hound.

Q. Who used that expression? A. Well, I think taking the Indian agents or any man around the country that has known his previous record, perhaps as much before he came to the reserve—

Q. Tell us one that called him worthless? A. It was almost every man.

Q. Then you can easily tell us one who said it? A. I have heard it so often that I never think of any man's name that mentioned it to me.

Q. You have heard it so often that you cannot tell us one man that ever said it? A. No, not just at the time being.

Q. You have said it yourself? A. I may have done so.

Q. Did you ever hear anyone else say it? A. I have.

Q. Who else? A. I don't remember any man's name, but it is the general expression used as regards him in that part of the country.

Q. You can easily tell us? A. Mr. Lash, the Indian agent.

Q. You have heard Mr. Lash call him a worthless hound? A. About to the same effect.

Q. Have you heard him call him a worthless hound? A. No, I won't say those are the exact words.

Q. Anybody else? A. I think Mr. McRae will give him a very good (?) reputation.

Q. Which Mr. McRae? A. Indian agent that was at Carlton.

Q. Did you ever hear him call him a worthless hound? A. That is the plain English for it.

Q. Now this is a matter of practical life and death to this man, or may be; now, please be careful what you say—you have said you heard him frequently called a worthless hound? A. That is the general expression used in that part of the country.

Q. Tell me one man you have ever heard use that expression with reference to this man? A. I gave you two gentlemen that perhaps know that Indian better than I do. I gave you Mr. Lash and Mr. McRae.

Q. They know him better than you do? A. Yes.

Q. Do you know Mr. Hughes? A. I know him as a magistrate in that part of the country.

Q. Does he know One Arrow? A. Well, he should do it, he has been there years enough.

Q. Is he one of the men who will say he is a worthless hound? A. I don't know what his opinion might be.

Q. Now, I can't help your memory; tell us somebody else whom you ever heard say he was a worthless hound? A. I cannot go and remember a thing like that.

Q. You cannot tell us a single man that said that except yourself? In plain English what other expression would you like to use? A. I say the general expression as regards him as an Indian is that a man is either a hard working Indian or else a worthless hound. That is the general expression. It may not mean as bad as that, I don't say it does, but as a general thing in applying any term to an Indian you apply that term, that is, the half-breeds themselves.

Q. You can't tell us a single man whom you ever heard, on your oath? A. Just at the time I cannot remember. I don't talk about the man.

Re-examined by Mr Osler:

Q. How far is the reserve this prisoner ought to be on? A. It adjoins the river lots at Batoche.

Q. How far from Batoche? A. About four and a quarter miles from where the houses were.

Q. Was this man on his reserve at that time? A. He was off the reserve at that time.

Q. Well, on these five different occasions that you saw the interview take place between Riel and the prisoner and the men go out, were they armed? A. They were all armed at that time.

Q. All armed? A. Yes.

By Mr. Robertson:

Q. Don't Indians generally carry arms in the most peaceful times? A. You don't find them in groups when you do, but when they are hunting they generally carry arms.

Q. Doesn't he generally do so? A. Not when he is not hunting.

By Mr. Osler :

Q. Were there other armed men around there? What was the gathering around there? A. They were all in arms.

Q. How many men do you suppose you ever saw together in arms? A. Between 400 and 500.

JOHN B. LASH, sworn :—

Examined by Mr. Casgrain :

Q. Where have you lived for the last few years, Mr. Lash? A. Well, I have been in the north and south.

Q. Have you lived near the locality called Batoche? A. Carlton. I went there in January last.

Q. You were there in the months of March, April and May last? A. Yes; the best part of the time I was a prisoner.

Q. What position did you occupy? A. I was a prisoner.

Q. But before you were a prisoner what were you doing there? A. I was Indian agent.

Q. Do you know the prisoner? A. I do.

Q. Where is his reserve situated? A. About four and a-half miles south of Batoche.

Q. What is the prisoner's position among his people? A. He is chief of the band.

Q. Had you occasion to see him any time in the month of March last? Yes, I saw him about the 18th March, on the reserve.

Q. Well, about that time, about the 18th March, and the days subsequent to that day, what was the state of the country around Batoche and Duck Lake, or in what state were the people there? A. They were a little excited; in arms and one thing and another.

Q. Well, will you please tell the jury the exact state in which the people were at that time? A. Well, on the 18th March, when I was arrested, I was arrested by an armed mob of about forty or fifty, I should say.

Q. What people were they? A. They were chiefly breeds. On the 19th the prisoner and his band fell into the band all armed.

Q. Who was in command of the half-breeds there? A. Riel.

Q. Louis Riel? A. Yes.

Q. On the 19th you say the prisoner fell in with the rest? A. He did.

Q. You saw him on the 19th? A. I saw him on the 19th.

Q. Had he anything with him? A. He was armed.

Q. Had he any people with him? A. Yes.

Q. How many about? A. About fifteen or twenty of his band. I cannot swear positively how many were with him, but there were quite a number with him.

Q. Did they carry anything with them? A. Most of them were armed.

Q. Well, what did they do on the 19th? A. On the 19th we were all kept in the church. They were in there knocking around the church all day.

Q. These people were? A. Yes.

Q. You saw the prisoner there that day? A. Yes.

Q. On the 26th March did anything happen that you know? A. On the 26th March I was taken to Duck Lake.

Q. By whom? A. By an armed guard. I can't give you the names; and after I was there a short time, I saw the rebels returning from the Duck Lake fight. I heard fighting going on meantime. I saw them return. The prisoner was one of them returning. He was returning. I could not swear that he was in the fight, but he was returning with the armed mob that came in.

Q. Who was in command of this armed mob? A. Riel.

Q. Did you see the prisoner on any day subsequent to this? A. I saw him again after the 3rd April.

Q. Under what circumstances did you see him? A. Well, at that time he had the whole of his band; he came down to Batoche to the tents.

Q. Was that their usual place of abode? A. No; their usual place was the reserve.

Q. What were they doing there? A. Well, they were all there, armed with the rest of them, walking around and watching for the enemy, as they called them.

Q. Who was the enemy? A. The enemy was supposed to be the Government, and the police, and the Hudson Bay Company.

Mr. Robertson.—Never mind what was supposed.

Q. From what you know personally who were the opposing forces there? A. The police and the troops under Gen. Middleton.

Q. And on the other side? A. The breeds and Indians.

Q. Well, this was on the 3rd April, you say? A. 3rd April we returned to Batoche.

Q. And you saw the Indians there? A. I saw them from that right along.

Q. Did you see Louis Riel and this man together ever? A. I have seen them talking; yes.

Q. After the talk did anything happen? A. Yes; he would go away over to the band and talk to them. I couldn't hear what they were saying; it was some little distance off.

Q. From what you saw, what were the relations that existed between this man and his band?

Mr. Robertson.—Let him tell us what he saw, and don't let him generalise.

Mr. Casgrain.—He has just been saying what he saw.

Mr. Robertson.—Then it is for the jury to say what their intentions were.

Q. What did this prisoner do after he had any communication? A. He would go over and communicate with his band.

Q. And then what would his band do? A. Well, I could not tell you what they would do; they were away over about a quarter of a mile from the house. I couldn't see what they would do.

Q. Were you not a prisoner at that time? A. I was.

Q. Did you see him on any subsequent days after this—the prisoner? A. I saw him off and on there till I was put in the cellar.

Q. On what day were you put in the cellar? A. I can't give you the date.

Q. About what date? A. It was about a week before the attack on Batoche.

Q. And up to that date you saw the prisoner there all the time? A. I saw him frequently.

Q. Was he carrying anything? A. He was always armed when I saw him.

Mr. Justice Richardson.—Do you wish this interpreted to the prisoner?

Mr. Robertson.—No, your Honor; I don't think it is worth while taking up your time with that.

Examined by Mr. Robertson:

Q. Mr. Lash, how long do you say you had known the prisoner? A. I went and took charge of the agency in January last.

Q. You have only known him a short time? A. I have only known him a very short time.

Q. You know a much travelled road passed through his reserve? A. In the winter. It is a winter road.

Q. Did you ever hear anything against him before this? A. Well, I have heard, but hearsay is nothing, I guess.

Q. Well, do you know anything against him before this? A. I was not long enough in the treaty to form an opinion.

Q. Did you ever describe him as a worthless hound? A. No, it is more than likely I have, from the stories I have heard about him, I would not say.

Q. Now, what stories did you ever hear? A. I heard that he was a worthless Indian.

Q. What else did you ever hear? A. I can't remember everything that way.

Q. Can you remember something? A. No, I can't say that I can. I heard it in the broad sense of the word that he was a worthless Indian. That comes to a good deal.

Q. You heard there was a prejudice against him. Did he ever give you any trouble? A. No, he did not.

Re-examined by Mr. Casgrain :

Q. You spoke of a treaty, was this Indian a treaty Indian? A. He was.

HAROLD D. ROSS, sworn :—

Examined by Mr. Casgrain :

Q. Where do you reside, Mr. Ross? A. Prince Albert.

Q. What is your occupation? A. I am deputy sheriff there.

Q. Do you know the prisoner? A. I do.

Q. When did you see him first? A. I first saw him in 1880.

Q. You have known him a long while? A. I have known him a long time, yes. He fought against us in 1880. Six of us took him prisoner. I was one of the six that took him prisoner in 1880 at Duck Lake.

Q. In what state was the country around Batoche and Duck Lake in March, April and May last? A. Well, it was in a state of great excitement. They were all up in arms.

Q. Who were up in arms? A. Half-breeds and Indians.

Q. Did you have occasion to see the prisoner at that time? A. I saw the prisoner some time during the day. I forget now when, on the 26th March. I was a prisoner then.

Q. In whose hands were you? A. In the hands of Riel.

Q. What was Louis Riel at that time? A. He was leader of the half-breeds and Indians.

Q. Against whom? A. Against the police and volunteers. That is on the 26th March.

Q. You were a prisoner at that time? A. I was.

Q. What did you see the prisoner do at that time? or did you see him do anything? A. I did not. I saw him armed, that is all I saw.

Q. What happened that day? A. There was a fight between the volunteers and the police, and the half-breeds and Indians.

Q. At Duck Lake? A. At Duck Lake.

Q. How long were you a prisoner? A. From the morning of the 26th March till the 12th May.

Q. Well, did you see the prisoner subsequently to the 26th March? A. I saw him some time during the winter before that.

Q. I mean between the 26th March and the day you were released? A. We were taken from Duck Lake to Carlton and from Carlton to Batoche, and I saw him there off and on from 3rd April, I think it was, until the 12th May, except a few hours when we were in the cellar.

Q. What was he doing there? A. Always armed, sitting out in front of the window; generally eating I saw him.

Q. Who was with him? A. With all his followers. All his band was there.

Q. Is he a treaty Indian? A. He is. I have paid him his treaty.

Q. Where does he live with his band? A. Four and a half miles from Batoche.

Q. Has he a reserve? A. He has.

Mr. Robertson.—I have no questions to ask.

Mr. Justice Richardson.—Do you wish what he has stated interpreted?

Mr. Robertson.—No, your Honor.

Mr. Osler.—That will be the case for the Crown.

Mr. Robertson.—I submit that the Crown has not made out a case to justify your honors in leaving it to the jury. Not a tittle of evidence has been given here to show that this man at all participated in the purpose for which this rising was made. The most that is shown is that he was present when fighting was going on, but he himself doing nothing. It seems to me that that is the gist of the whole evidence. It amounts to nothing more than that. We have Mr. Astley's statement that the only occasion upon which he saw him where fighting was going on was on the morning of the 12th May, when he said he was standing; the prisoner was just standing there. There is not a tittle of other evidence to show anything of the kind.

It is also said that Riel was seen to speak to him, and he was seen to speak to somebody else, and other men to whom he spoke then moved away. Now nothing is to be inferred as to the intent with which those men moved away. There is no significance whatever to be attached to the mere circumstance that a conversation took place, and men walked away in consequence of it, unless that is to be given to it because there were armed men there. Now it is perfectly consistent with the presence of this man with the armed force that has been spoken of, that he was there innocently. It is perfectly consistent with that. There may be 50 reasons that took him there. He might have been there out of idle curiosity. He might have had his gun with him perfectly innocently. Your Honors know, as I am informed is the fact, that an Indian rarely moves without his gun, and there is nothing to show that he committed any overt act at all.

Now I admit that if it were shown that the prisoner was present there understanding the intent with which these people were assembled, if it had been shown that he knew what they were intending to do, that they were intending to levy war against the Queen for some public general purpose, because it must be that—if he had known that, his presence there would have been enough; but in the absence of evidence of that, his presence there is not enough, unless it is shown that he took active part in it. It is laid down in East's Pleas of the Crown, "joining with rebels freely and voluntarily in any rebellion, any act of rebellion is levying war against the king, and this too, though the party was not privy to their intent."

"Joining them in any act of rebellion"; but it seems necessary in this case either that the party joining with the rebels and ignorant of their intent at the time (it is essential to know their intent) should do some deliberate act towards the execution of their design, or else should be found to have aided and assisted those who did. Now I submit that there is no evidence here to show that the prisoner took such an active part that the jury should be asked even to say whether or not he ought to be held guilty.

"Therefore, in the cases of Green and Bedell, who with others were indicted for levying war and pulling down bawdy houses and opening prisons, it being only found that they were present and not fighting, any particular act of force committed by them, or that they were aiding or assisting to the rest, which is a fact that must be found by the jury and cannot be implied (that is in cases left to the jury, if there were any evidence of it), they were discharged, and if the act of those who suddenly joined the insurrection being ignorant of their design, appeared to be more inconsiderate than wilful or mischievous, such as throwing up their hands or hallooing with the mob, this will fall under the same lenient consideration."

There is a case reported in Cox's criminal cases as to the effect of presence at an unlawful assemblage, *Queen vs. Atkinson* 2, Cox's criminal cases, page 330. That was an indictment for a riot. On an indictment for a riot, persons are not liable merely on account of their having been present and among the mob, even although they had the power of preventing it, unless they by word or act helped, incited and encouraged it. That was a case of riot arising out of an election.

Now, the evidence, your Honors will see was very strong, it was evidence from which very probably at first one would be inclined to infer the man was there assisting and encouraging. The evidence against the principal defendant was that he took a strong interest in the election and was present when there was a serious riot and a systematic attack upon the houses of the opposite party, and finally upon the polling booths, though many of the rioters were in his own employment.

Now, a point is attempted to be made here that this man's Indians were there, that his band were there.

In the election case many of the rioters were in this man's employment, he did nothing to restrain them, and when asked to do so, he only laughed. It was held that there was no evidence against him, nor against any others who were present except such as were proved by word or action to have taken part in, helped or incited the riotous proceedings.

Now, it does seem to me upon that that this is a case in which your Honors' discretion would be wisely exercised in withdrawing it from the jury altogether, and I don't think that my learned friends ought to press for a verdict upon such evidence as this. It does not seem to me that it shows a sufficient case against him, particularly bearing in mind the extreme difficulty there is in properly ascertaining the whole of the facts in such a manner as I might be able to do if the prisoner were a white man. If he were a white man who understood the nature of a trial and what he was here for, it would be a totally different matter, but your Honors I am very sure know, as I have lately found out how extremely difficult it is to make them understand the nature of the proceedings and make them understand the importance of explaining the true facts of the case.

I would ask your Honors to say that there is not evidence upon which the jury can properly find him guilty, and if so, it is your Honors' duty to withdraw the case from the jury.

Mr. Osler.—We think your Honors we have made a very strong case indeed against the prisoner. We have brought him within the rule of law that casts the onus upon him of explaining his presence there. We have shown organized armed rebellion against the Crown, a contest against Her Majesty's forces, the police and volunteers, and that brings it within the rule laid down in the books. A convenient reference is Archbold, page 786.

Mr. Justice Richardson.—Isn't that case of the Queen *vs.* School, on all fours with this?

Mr. Osler.—Yes, and the case of Regina *vs.* the Earl of Essex. They seem to show that it is quite conclusive that the onus is upon the prisoner to explain his acts, after such evidence has been given.

Mr. Justice Richardson.—I think, Mr. Robertson, it must go to the jury. There is the fact of the fight at Duck Lake, the fact of the rebellion and the fact of the fight going on, and he was seen coming back. There was then a fight going on at Batoche. He was on the hill with the party who were firing upon General Middleton. Now, I think it is upon him to explain why he was there, and that he was there innocently.

Mr. Robertson.—His own mouth being closed?

Mr. Justice Richardson.—His mouth won't be closed, because I shall ask him if he wishes to say anything to the jury, and what he does say he can say in his own language, and it will be interpreted.

Mr. Robertson. I wish to call Owen Hughes, as to the prisoner's character, that is all. (Witness not present.) He promised to be here, and I don't find him; it is only a matter of character, and I don't know that it makes very much difference.

May it please your Honors, gentlemen of the jury, I am sure you feel as every one concerned in this case must feel, that the duty we here have to discharge is a very important one, and one involving very serious responsibilities. We must all feel, that in dealing with these unfortunate Indians we are dealing with a race of people who are unlike ourselves, of whose motives and actions it is extremely difficult for us to judge with justice, particularly as our minds are naturally disposed, by antipathy of the race, to judge harshly what they do. The crime with which the prisoner is charged is a very serious one, and one which, no doubt, when a white man has committed, should be severely punished. It is a crime, however, involving altogether in its enormity the ideas peculiar to white people, the people accustomed to live under civilized forms of government, and to people who understand that they owe duties to society at large, of which an Indian has not the first idea. An Indian has no notion of the nature of civilized society; he has no notion of the importance

of maintaining law and order. It will be said that he should be taught that. Truly he should be taught that, and he must be taught it, but it is very important, in our own interests, that we by coming and teaching him that lesson, should teach him that the very essence of the law is fairness and mercy. It is a sacred principle of the law of England, as you all know that no man shall be judged guilty of any crime until he is convicted of it, and not upon suspicion, not upon merely suspicious circumstances which he may find it difficult to explain, because of accident or because of his incapacity to take care of his own interests; but upon evidence which conclusively establishes, beyond any reasonable doubt, that the man committed that crime with the criminal intent which is of its essence. So sacred is that principle, and so thoroughly is it recognized, I am thankful to say in this our Dominion, that I am here to try and help you, not as the hired advocate of this unfortunate man. It is not at his request I am here, I am here at the request of the Government. The very Government that prosecutes him brings me, because, they say, we wish to see that no innocent man or no man is convicted unless he is clearly proven to be guilty, and to that end we wish some one who will take the side of the prisoner and do what he can to help the jury in getting at the truth, in exercising judgment upon which, practically, that man's life may depend, because the punishment for this crime may be imprisonment for life, and you know, as I know from what I have seen of the effects of the imprisonment, that some of these poor men have endured for only a couple of months. You know as well as I know that a punishment, not for life, but for years, a couple of years, would be almost certainly fatal to any one of them. You know that they die under confinement, so that practically you have in your hands to-day the life of that man. That responsibility rests upon you, and it rests upon all of us who are engaged in this trial.

Let us approach the consideration then of the evidence upon which you have to determine that grave question with perfect fairness and without prejudice, and let us try to judge this unfortunate man at least as fairly as if he were a white man. Let us not disgrace our race by any hasty condemnation of another because he is of a different race. Let us show that we are really superior to the unhappy race to which he belongs. Now, is there evidence that conclusively proves that that man levied war against Her Majesty with intent by force and constraint to compel her to change her measures and counsels? My learned friends, of course, say, on behalf of the Crown, that if he levied war the intent may be presumed. No doubt a jury may presume it as against a white man, in many cases we presume it, because a white man found with a band of armed men, arrayed against the troops, must know what he was doing and must know it, and a jury would naturally infer it; but it does not follow at all that a jury need say that an Indian did that, or was there with any such intent as that. We know that an Indian, when any excitement is going on, is very apt to go where the excitement is in the hope that he might get something to eat. Now, that is not treasonable felony. It is not treasonable felony even for a band of Indians to go and rob a store to feed themselves, by any means. It is not treasonable felony for a band of Indians to go to try and release one of their own number that is in prison. It is not treasonable felony for them to go and attack an individual. It is not treasonable felony for them even to riot, to meet in large numbers and use violence, unless it is for some public general object. Now, gentlemen, I am speaking by the book when I say that. I am not talking at random. To constitute a levying of war, it is laid down in perhaps the best authority we have on the subject, Archbold's criminal-pleading and evidence, there must be an insurrection, there must be force accompanying that insurrection, and it must be for an object of a general nature; for instance for the purpose of deposing or imprisoning the Queen or of getting her into the power of the rebels or of forcing her to put away her minister, or the like, or for the purpose of effecting innovations of a public general nature by an armed force as for the purpose of attempting by force to obtain the repeal of a statute (something that affects all the people), to alter the religion established by law, or to obtain the redress of any other public grievance, real or pretended, but an insurrection for the

purpose of throwing down enclosures of a manor, park, common, &c., or upon a mere quarrel between private persons, or to deliver one or more particular prisoners out of gaol, though not being imprisoned for treason or holding a house by force and against the sheriff or *posse comitatus* is not treason, so that if an armed batch of men enter a town, their object being not to take it or attack the military force there, but merely to make a demonstration of force, of their strength to the magistrate in order to procure the liberation or mitigate the punishment of prisoners convicted of some political offence, this, though aggravated misdemeanor, is not high treason. It does not come within the Treason-felony Act, because levying war, under Treason-felony Act, is the same thing as levying war that constitutes high treason. Now, what idea, such as any of those, had this man? What notion had he of the kind? And that is of the very essence of the crime. Unless he had some idea of that kind, unless, for instance, he understood what Mr. Riel was after, unless he understood his scheme, and that he wanted to depose the Queen, to drive her out of these territories, and establish a new republic of his own, unless he understood all that, and did it for that purpose, and was there encouraging and aiding in that, he is not guilty of this offence, and it is not for you, with all deference to what my learned friends say—I say that you are not at all bound to make any such inference as they say, from the facts that are before you. The only undoubted facts are that the Indian was there and he had his gun. Is that an extraordinary thing for an Indian? Is it an extraordinary thing for him to be off his reserve in a time of excitement?—And is it an extraordinary thing for him to have his gun with him when he is off it? There is the whole thing.

Now, gentlemen, I have an explanation to suggest to you of why he was there. Unhappily, he cannot speak English. I cannot acquire his confidence. I don't know the Indians well enough, and I have not been able to get anyone to assist me, who does know them well enough, to enable me to prepare properly for their defence. The most that I can do is to sit here and watch the case made by the Crown, and appeal to you to consider it leniently, and to bear in mind the difficulties of this unfortunate man's position. Now, the explanation I have to suggest to you is this: Riel, we know perfectly well, it is matter of public notoriety that Riel carried on the whole of this scoundrelly business by means of all kinds of intimidation, and falsehood and imposture. We know that, and my explanation to you is that these people were frightened and imposed upon by him, just as it was proved at his trial that he imposed upon hundreds; that this poor man, among the rest, was terrified and imposed upon until he was induced, and brought in there, but that it was against his will, and that is why we find him there; but we don't find him raising a finger against anybody. Now, as matter of fact, he did not raise a finger against anybody—not a finger—and his previous character I say is good. Now, I say that, in spite of what Mr. Astley says. Mr. Astley is a very gallant man; he deserves all praise for his noble conduct on the 12th May, in carrying in the public spirited way in which he did those messages between Riel and General Middleton. Undoubtedly he is a gallant man, but a gallant man is often impetuous, and a gallant man often jumps quickly to conclusions, and that was apparent in that box I think. I would not say for a moment he wished to injure this man unjustly, but he was carried away a good deal by a very bad opinion of all Indians in general, and in fact the definition of an Indian by him is that he is a worthless hound. He got that into his head, and he said it was a common definition, but he could not give us a single man that had ever said it. He is prejudiced against the Indians, there is no doubt about it. You all say that, and withal, the worst he could say against this man was that he had heard that, although, remember, there goes through his reserve a public, much-travelled road, a road much travelled in winter, he told us himself. Now, gentlemen, if this were such a bad Indian, if the Indian and his band were such bad Indians, shouldn't we have heard something worse than that against him? One witness here did interpolate something; he said he fought against him, and he took him prisoner once, but it was a most improper thing for that witness to make that statement. Of course, it comes as a complete surprise to me; it has nothing whatever to do with the charge that is here, and I have no doubt it could be perfectly explained if I had had the warning

of it, and had the opportunity of enquiring into it. I think their Honors will tell you that you shouldn't pay the slightest attention to that remark. It was improperly interpolated and it just showed a little more of that bias against them, against these Indian people have to contend with in dealing with white people. I don't think you will have that same prejudice, and as you sit there and upon your oaths to administer British justice to this poor man, I think I may rely upon your perfect impartiality. I am sure that I can and I ask you to think over all the evidence and see what it amounts to and see if you cannot explain anything that this man appears to have done upon an hypothesis of that kind, quite consistently with the absence of any intention or wish on his part to subvert the Government and compel Her Majesty to change her measures or counsels or any such object of a public nature, anything of that kind, he may have been there to get some grub in the hope of that, and it is very probable indeed he was. Riel fed them when he came there, and no doubt he got many of them about him in that way. Any of these hypotheses is quite consistent with the evidence given here.

I ask you, gentlemen, not because I am this man's hired advocate, but just in the cause of simple British justice to consider the facts that are before you carefully and see if you think you can upon such mere suspicion as that, convict that man of a crime which renders him liable practically to the punishment of death—according to the statute, imprisonment for life.

Mr. Osler.—May it please your honors, gentlemen, of the jury: The importance of this case, one of a class, renders it necessary for me, as one of the counsel representing the Crown, to say a few words telling you why we think the evidence justifies you in finding the prisoner guilty. We are to give him a fair trial. His counsel here, assigned by the Indian Department to see that he gets a fair trial has done all that could be done, and said all that could be said in his favor. The charge is a serious one, it is not, though, a capital one, the sentence is in the discretion of the court and all mitigating circumstances may be brought before the court or, after sentence, before the executive, you have nothing to do with that. The question for you to pass on is, is this man guilty?

Now my learned friend read you some law, but he has not I think gone quite far enough. His general principles were no doubt from authority, and given by the authority of the various cases. All we have to show however is that there was a state of war or insurrection for some general purpose existing. Well, we have shown that, I think to your satisfaction. That is a matter of history, but you must not act upon history, you must act upon evidence, that is in evidence before you, by the evidence of Mr. Astley. There was an armed insurrection for a general purpose—that is, for redressing certain grievances existing or supposed to, and that insurrection, that armed rebellion was directed against the police, and the armed forces of the Government. Now, of that question upon the evidence, there can be no doubt.

Then there being an actual state of war, did the prisoner participate? If he did participate, his individual intent has nothing to do with it. As long as we prove the general intent, and an actual state of armed force, then everybody who participates, no matter what their personal intentions are, is guilty. That is well laid down. The books say the intention however, is not capable of positive proof, it can only be implied from overt acts, and every man is supposed to intend the necessary and reasonable consequences of his own acts. I read that to you, because it is an authority from the same book that my learned friend has been depending upon. Then, again reading from the same book, it may be necessary here, to mention that in the case of war levied directly against the Queen, which this technically is, all persons assembled and marching with the rebels are guilty of treason, whether they are aware of the purpose of the assembling and aid or assist in committing acts of violence or not.

Now, of course, if we were going before a jury here on a case of constructive treason, that is to say, by reason of acts, certain acts, treason was to be inferred, and were not here on a direct act of levying war or open insurrection, what my learned friend read to you would be perfectly and strictly correct, but the moment we have proved an actual state of existing insurrection, and the moment we prove to your

satisfaction that the prisoner took part in that, and was guilty of an overt act in that as charged, then the evidence is, as I read the law, conclusive against him, and the burden of proof is upon him to show that he was there for some innocent purpose.

Now can the acts of the prisoner be consistent with innocence? Granting that he is an Indian, and granting that he is not to be measured by the same light as one of a more civilized race, we have him a treaty Indian without any grievances that we have heard of. He had no part in any half-breed grievance if such existed. He was there, fed and kept by the Government under the treaty he had made. Now he had no right, even if there was a seeming right or a claimed right on the part of the half-breeds in arms, for he had nothing to redress. Now where do we find him? First, with his band he comes in under arms, on the occasion spoken of by Mr. Lash. He goes out with his band under arms to Duck Lake and comes back. There is evidence of a contest having taken place and of a wounded man prisoner being brought in—because I want you to confine yourselves to the evidence here, not what you have heard in the newspapers.

Then at Batoche Mr. Astley sees him, apparently getting orders from the leader, Louis Riel, five times. Each time the order is given to him he apparently gives an order to his band. You can only judge of the actions. After a communication of the rebel chief to the chief of this band, he apparently makes a communication and they go off armed in concert. It is for you to say whether they went off armed for a lawful or an unlawful purpose. Then you have the evidence of Mr. Astley, that upon the last day of the fight, on the 12th May, this man was apparently in charge of the Indian band and firing at the troops. We don't need to prove a gun in this man's hand on that occasion. We don't need to prove that he fired at the troops. Do you believe from the evidence that he was there giving orders? That he was there in charge of his band, that his band were there opposed to the troops, to General Middleton? The evidence, gentlemen, as to that, is all one way. Now, while we desire, if there is a shadow of reasonable doubt as to the guilt of the prisoner, if there is any reasonable doubt as to his guilt, that you should give him the benefit of it. You have got, on the other hand, to consider the evidence and say whether you can justify yourselves to society as it exists here, whether an acquittal upon this evidence would be the proper thing to do. Granted that he is an Indian, the community have got to protect themselves against the lawless acts, against the taking up of guns and going into insurrection on any occasion or at anybody's request. My learned friend says we have got to educate them. Well, I submit that the best education that we can give is that when we find them going wrong on conclusive evidence we punish them for that in the way that the law directs. I submit to you, gentlemen, therefore, that the evidence is of such a nature that it brings home to the prisoner guilt—guilt as charged in the papers read to you.

Mr. Robertson.—Before you Honor addresses the jury—there is no appeal from this—and although I am irregular I would ask my learned friend's indulgence while I just point out one thing that I submit is not quite correct in his speech. He says this is a case of direct levying of war against the Queen. Now, it is constructive levying of war, and that is just the point in the case. Your Honors will see from the passage I have just given you, a line of difference clearly drawn between direct levying of war and constructive levying of war.

Mr. Osler.—My learned friend mistakes my statement. I said if it was a case of making out constructive treason, but there may be constructive levying of war and direct levying of war. There may be constructive treason, and the direct act of treason.

Mr. Robertson.—The distinction is between direct levying of war and constructive levying of war, and your Honors will see that if you read the page I referred to.

Mr. Justice Richardson.—It is under the title of high treason.

Mr. Robertson.—True, but it is dealing with the levying of war. This war levied against the Queen is of two kinds, direct and constructive. Levying of war is spoken of as direct when war is levied directly against the Queen or her forces with intent to do some injury to her person, to imprison her or the like.

Mr. Justice Richardson.—Isn't that what this charge says?

Mr. Robertson.—But the evidence does not support anything of the kind; the constructive levying of war is where there is a levying of war for some public general purpose or something of that kind. That is the difference, and it is distinctly laid down it is not direct treason and constructive treason, but it is war levied directly against the Queen. In that case, it is true, as my learned friend says, that all persons assembled and marching with the rebels are guilty of treason, whether aware of the purpose of the assembly or not, but in the case of constructive levying of war, not constructive levying of treason, none of those aiding and assisting in doing those acts of violence which form the subject of treason are traitors. The distinction is between constructive and direct levying.

Mr. Osler.—I argue that we bring it right under that—it is levying of war. I distinguish between constructive treason, but in constructive levying of war, if I bring home acting and aiding with him, the intent may not be made out.

Mr. Robertson.—That is exactly what I say is the law. There must be actual aiding and assisting in those acts of violence which form the constructive treason. I want the jury to understand it must be shown that the prisoner actually aided and assisted in the acts of violence that constituted the constructive levying of war. And there is one other thing I want you to note—my learned friend spoke of the evidence as conclusive. Now, the evidence is purely circumstantial of the intent.

Mr. Justice Richardson.—No, I understood him to put it in this way: he asked the jury if the evidence would not bring it around conclusively to the prisoner?

Mr. Robertson.—That is, that it is conclusively established by direct evidence.

Mr. Osler.—I think in anticipating your Honor's charge in this way, my learned friend is a little irregular. He should object to the court's charge and not to the counsel's argument.

Mr. Robertson.—But there is no appeal from the charge.

Mr. Justice Richardson.—Wouldn't it be proper for you as I go on to call my attention to it?

Mr. Robertson.—It is purely a matter of grace. It is a rule as to all circumstantial evidence that it must be perfectly inconsistent.

Mr. Justice Richardson.—Gentlemen of the jury: The charge against this prisoner is as you have heard, a very serious one, and of very serious nature. He is charged with having been a participant in some of the acts which are pretty notorious in the rebellion which has recently been broken up.

The material points really necessary to be established in order to support a conviction on this charge against this prisoner are—1st. Was war levied? That is, was there rebellion? If you are satisfied on that point, that it was so, then comes the question whether or not this individual, the prisoner, was mixed up in it?

True, he is an Indian, and, perhaps, very properly you should, in his instance, give the matter very deep consideration, but whether you should extend to him more than you would extend to any other illiterate person is entirely another matter, and a matter in which I should say he is to be measured by the same law that anybody else would be measured by. At any rate, my direction to you would be to give him a fair and reasonable consideration, realizing the condition in which you see him, and in which we know the Indians are to-day.

Now, in reference to this charge against the prisoner, I should tell you that if you are not convinced by the evidence you have heard there was rebellion or insurrection at all, if you are not satisfied on that point, then he is entitled to an acquittal at once; but if you are satisfied on that point, then comes the question, what have you got before you? What has been brought before you to justify you in saying that this man has broken the law?

Well, we have Mr. Astley, the first witness. He tells you he saw this man armed, that he saw this man on the day of what is notorious as the day of the Duck Lake fight, that he saw him on that occasion, and we have further from Mr. Astley that during the interval between the Duck Lake fight, which was, I think, the 26th March, and the 12th May, we have the assertion of Mr. Astley that he saw him

frequently about that place, and where the prisoners were confined, that he was under arms, and that he was holding conversation in a language that Mr. Astley did not understand at various times with the leader of that insurrection or rebellion, and that immediately following their interviews certain instructions were given by himself to the Indians which belonged to his band then collected under arms. We have further that on the day of the Batoche engagement, the taking of Batoche, Astley's assertion that this man was in charge of the Indians whom he controlled, more or less armed, that he himself was armed, and that although he did not see the prisoner fire upon Her Majesty's troops, his men were moving up and down from the pit or whatever position they had, and they were firing upon the troops. Well, that firing of itself is clearly an act of war.

The question for you to consider is, do you believe what Mr. Astley said? That is one thing, but not only have you to consider whether you believe what Mr. Astley himself said, but you have got further to consider whether or not Astley is corroborated, and in what way he is corroborated?

You have the statement of two other witnesses. First, you have Mr. Lash, who says he was Indian agent there, that he was also a prisoner, and corroborates Astley except as to what happened at Batoche on the morning of the 12th May, after Astley was sent off by Riel to the general; and you have him corroborated also by Mr. Harold D. Ross, also a prisoner.

Now, you have to determine upon what Mr. Astley and Mr. Ross and Mr. Lash have stated, whether this man is guilty or not.

If you believe the statements they have made, then I think there can be no different course open to you than to determine that he was a participant in the unlawful acts which are alleged to have transpired.

If, on the other hand, reasonable doubts have entered your mind, and you cannot bring yourselves to bring this home to him, then I say on that score he is entitled to the benefit of any reasonable doubt and should be acquitted.

Now, I think I have put it fairly before you, and shall ask you to consider him carefully, and if you can draw no other conclusion for it than that he was a participant in these acts, then that you should find him guilty.

On the other hand, failing that conclusiveness, then he ought to be set free.

You may retire gentlemen, and give this matter your consideration. (The jury here retired and found prisoner "guilty," whereupon the prisoner was remanded for sentence.)

Friday, 14th August.

Clerk opens court at 5.45, p. m.

Mr. Robertson.—I move the sentence of the court upon One Arrow.

Mr. Justice Richardson.—One Arrow, have you anything to say why sentence should not be pronounced upon you for the offence of which you stand convicted and were convicted yesterday?

One Arrow through Interpreter Hourie.—I would like to speak for myself. The court has charged against me yesterday that I had taken up arms and that I had painted my face with war paint. He says he could hardly do so when he lost one of his grandchildren lately. He says he has thrown away that painting long ago. I never kept any councilor, held any council. I am just a person alone and keep in one place. I have been charged here that I had a gun in my hand and was seen shooting at the white men. I never did that. I never did that, to take my gun to shoot at a white man. There is an old man here that can prove and say that what I am saying is true. I thought that I was doing no harm to anybody, but, of course, they threw the blame on me. All that was said against me was thrown upon me falsely. I did not take up my gun with the intention, with any evil intention to shoot at any man, not at all in the least. I was there on the brink of the hill the whole day, and I had my gun there; but, of course, not with the intention to use the gun against any man, and when I saw the white men coming down, the soldiers coming down, then I ran down the hill too, and ran off. I am an old man now. I would not do that, or do any such a thing as that against a white man. I was taken to the place, Batoche's,

to join Riel by Gabriel. I did not take myself to the place. They took me there. I could not say how many there were of them that took me there, but there was quite a number of them. I was away one side alone and they came for me. There was quite a large number of them went down to the place.

Mr. Justice Richardson.—I have no objection to hear it, but you are rather drifting away, Mr. Robertson.

Mr. Robertson.—I wish that your Honor should give him an opportunity to explain.

Prisoner One Arrow.—I could not say that he asked me to do so and so, but he asked me to come along. He could not say for what reason he wanted me to go with him.

Mr. Robertson.—That was in answer to a question that I asked the interpreter to put to him, to say what Gabriel told him in order to induce him to go.

One Arrow.—I, of course, always listen to what I am told. I was told that I was wanted down at Carlton, so I went there and when I got there I was taken prisoner, so now I wish that I should be let go. Gabriel took me prisoner. He asked the whole of us to go down to the place. I now beg your Honors and all you learned people here to—I know I have done nothing wrong, I can't see where I have done anything wrong against anybody so I beg of you to let me go, to let me go free, and that is all.

Mr. Justice Richardson.—One Arrow, the difference between your case and the case of those others we have heard here, is that a jury, after hearing everything that had to be said, both against you and for you, by a gentleman who was sent here by the Indian Department, have found you guilty. You were a participant, you were with an armed mob who were in arms and against the Government, and you a treaty Indian too as well as a headman or chief of a band. With your trials you have nothing to complain of, for the Government was so interested in one of the chiefs that he placed a lawyer here to look after you and see that nothing should be unfairly done against you. Old as you are, and gray-haired as you are, you knew you were doing wrong, you knew you had no right to leave your reserve where you had promised to live, and, much as I dislike to punish an Indian, or to punish anybody, much as I dislike to pass sentence on anyone, I shall be as wanting in my duty to the public and to the Crown as you were if I did not place such a punishment upon you as would make you feel it, as also make the other Indians of the country know what would become of them if they followed your bad example. If my memory does not fail me, I recollect giving you personally some words of good advice three or four years ago at Prince Albert, and if you had followed them you would not be here.

The sentence of the court upon you, One Arrow, for the offence of which you stand convicted, is that you be imprisoned in the penitentiary of Manitoba for the period of three years.

QUEEN vs. "WHITE CAP."

CANADA: }
North-West Territories. }

The information and complaint of Frederick Kelloch Gibson, of the town of Regina, in the North-West Territories of Canada, deputy sheriff, taken the fourteenth September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:

That Wah-pah-iss-co, otherwise called White Cap, not regarding the duty of his allegiance but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear towards our said Lady the Queen, on the tenth of April, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days as well before as after that date, together with divers other evil-disposed persons to the said

Frederick Kelloch Gibson unknown, did within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen within Canada, in order by force and constraint to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention then feloniously and wickedly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say :—

In order to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, devise and intention aforesaid, he, the said Wah-pah-iss-co, otherwise called White Cap, afterwards, to wit, on the tenth day of April, in the year aforesaid, and on divers other days and times as well before as after that date, at or near the locality called Batoche in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further, to fulfil and bring into effect his felonious compassing, imagination, device and intention he, the said Wah-pah-iss-co, otherwise called White Cap, afterwards, to wit, on the twenty-fourth day of April in the year aforesaid, and on divers other days and times as well as before and after that day, at or near the locality known as Fish Creek in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together with divers other evil-disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further, to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Wah-pah-iss-co, otherwise called White Cap, afterwards, to wit, on the twelfth day of May in the year aforesaid and on divers other days and times as well before as after that day, at and near the locality called Batoche, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, to make, raise and levy insurrection and rebellion against our said Lady the Queen within this realm.

In contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

FRED. K. GIBSON.

Sworn before me the day and year above }
mentioned, at the town of Regina, in the }
North-West Territories of Canada.

HUGH RICHARDSON,

Stipendiary Magistrate in and for the said North-West Territories.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace with the intervention of a jury of six, or before a stipendiary magistrate in a summary way without the intervention of a jury. Which do you elect?

Charge read to the jury by the Clerk, who continues as follows: Upon these charges the prisoner at the bar hath been arraigned, and upon his arraignment hath pleaded not guilty. Your duty, therefore, is to enquire whether he be guilty or not guilty, and hearken to the evidence.

Mr. Scott.—May it please your Honors, gentlemen of the jury: The charge you have heard read against the prisoner is for the offence known as treason-felony. It is punishable upon conviction by such term of imprisonment as the court may think proper to inflict. The prisoner is the chief of a band of Sioux Indians who occupy a reserve a short distance south of Saskatoon, on the south branch of the Saskatchewan River. At the time of the breaking out of the rebellion in the north, that is about the 18th March last, as we shall show you, the prisoner was living on his reserve apparently peaceable. Shortly after the breaking out of the rebellion, he left his reservation and went north and joined the rebels who were assembled in the neigh-

borhood of Batoche, under the leadership of Louis Riel. The rebels had what is called a council, that is, their affairs were managed with Louis Riel as leader of the rebels. Their affairs and internal management were managed by a council consisting of twelve members. Upon the prisoner's arrival in the rebel camp, he was made a member of that council, and sat with the council upon a number of occasions after that. We will give you a short history of the rebellion, the evidence showing that it commenced on the 18th March; that on the 26th March there was a battle at Duck Lake in that neighborhood, at which several volunteers and policemen were killed, that afterwards at Fish Creek, on the 24th April, there was another battle with the troops, the Government troops, under General Middleton, and that on or about the 12th May, a third battle was fought between the same sides, and the troops were victorious, and Louis Riel and his followers were defeated, and the rebellion came to an end in that part of the country upon that day. The prisoner remained as a member of the council with the rebels until about the 12th May and was arrested shortly after that. That is his connection with the rebellion; he moved with his band up from his reservation shortly after the breaking out of the rebellion, and was made a member of the rebel council when he got up there, and acted and conspired with the rebels to keep up the rebellion until about the 12th May. That is his history as far as the rebellion is concerned. Now, the substance of the charge against him is that he designed and intended to levy war against Her Majesty, that is, against the Government, the lawful Government of the country, and that in order to bring into effect his design and intention, he committed certain overt acts which are set out. The first one is on the 10th April at Batoche. That is given because we find he was at Batoche at the time acting as a member of the rebel council; the second is on the 24th April at Fish Creek, which is the date of the battle of Fish Creek, and although perhaps not present at the battle, although we may not be able to show that he was armed on any occasion or that he was fighting on any occasion, we are merely called upon to show that he was conspiring with the rebels to keep up that rebellion or to start it. That is the second overt act—the time of the battle of Fish Creek, and the third one is of the 12th May at Batoche. Those are the three charges against him, for conspiring on those three occasions to levy war.

JOHN W. ASTLEY sworn:—

Examined by Mr. Scott:

Q. You live at Prince Albert? A. Yes.

Q. Are you a surveyor? A. Yes.

Q. You joined the Prince Albert volunteer company about the 18th? A. 19th March last.

Q. And went to Carlton? A. Went to Carlton.

Q. With that company? A. With that company.

Q. What happened to you about the 20th March? A. From that time till I was taken prisoner on the 26th I was scouting backwards and forwards through the half-breed and Indian settlement.

Q. You were sent out by whom? A. By Major Crozier, and I was taken prisoner 26th March at Duck Lake by the half-breeds and some Indians under the leadership of Louis Riel who were in open rebellion against the Queen and Government.

Q. What was the state of the country generally there? A. Through the French half-breed settlement they were all up in arms.

Q. How many were there in arms? A. About 400 or 500, I should say.

Q. You were taken prisoner by them and held how long? A. On the 26th March, from 26th March till 12th May.

Q. When you were released by—? A. The troops under General Middleton.

Q. Were there any engagements between the rebels and the police during that time? A. The 26th March, the same day that I was taken prisoner, there was a fight a short distance from the house I was in.

Q. That you were imprisoned in? A. That I was imprisoned in. After the fight was over Riel himself came up stairs and said that there had been a fight, and

he had called on his men to fire, and shortly afterwards a wounded volunteer was brought up into the room, named Charles Newett, and then William Tomkins and a man named Lash went to the battle-field afterwards.

Q. Any other fights that you know or heard of? A. At Batoche of course there was fighting there, Saturday, Sunday, Monday, Tuesday, four days.

Q. Between whom? A. The troops and the French half-breeds, and the Indians at Fish Creek.

Q. What were you doing on the 12th? A. I carried a note out in the morning to General Middleton from Riel, and going down the river in the direction where I was sent to find the general, I passed rifle pits where the prisoner was in. I saw him on my way out that morning the first time.

Q. You passed through the lines from Riel's camp? A. To the general's camp, to the general's lines, and then when I came back again I came back almost at once.

Q. What for? A. To bring a note back from the general to Riel—and I again saw the prisoner.

Q. I want to know what you did that day? A. I came back. That was the first time I came back, and talked to Riel some time, and then I took another note out about two o'clock in the afternoon—went through the lines again and back again, and then after that again I went out a third time.

Q. Then how many times did you pass through the lines? A. Three times out and twice back. I came back with the troops the last time.

Q. Then what was the state of the country all that time, from the time that you were arrested or for some time previous to that, up till the 12th May? A. In open rebellion the whole time.

Q. Did you see the prisoner? A. Yes.

Q. When did you first see him after you were made a prisoner? A. About a week after I came to Batoche. That would be somewhere about the 10th April.

Q. Where did you see him that day? A. He and his band I saw arriving in at Batoche's all on horseback, and all armed.

Q. You saw him and his band coming in on horseback all armed? A. Yes.

Q. About how many were there? A. I would say there were about twenty.

Q. That is all you saw? A. That is all I saw at that time.

Q. Did you see him at any time there after that? A. I saw him on a good many occasions from that till the day of the last battle backwards and forwards among the half breeds and among his own Indians, and just previous to the Fish Creek fight, about two days before that I saw him addressing his band. I saw him addressing his band out in front of the window where we were prisoners. That was about two days before the Fish Creek fight, and then I saw the band going away.

Q. Did you speak Sioux? A. No, I could only see that he was talking to them. They use a good many signs in talking the Sioux.

Q. Then you say you saw him on the 12th? A. When I went out the first time on horseback, and Riel was passing me through the lines, he called the prisoner there and he went up from his pit and he spoke to him something about me, I supposed, spoke to him so as to pass me through.

Q. Riel was passing you through the lines? A. Yes.

Q. And when you were passing? A. He called him up, and he came up from one of the rifle pits.

Q. He was in a rifle pit when he was called? A. Yes.

Q. Had he anything in his hand? A. He was armed, he had a rifle or shot-gun, but he had arms.

Q. And was coming out of a rifle pit? A. Yes.

Q. And Riel said something to him, you don't know what? A. No, it was something about me I supposed, that is what Riel told me he had told him.

Q. When did you see him again? A. When I was coming back a short time afterwards I passed the same row of pits. Some Indians of his own band had fired at me, the farthest pit from where he was, and I was passing and he came out of the pit.

and hollered something, and then there was no more firing. That was just the same pit, and he had a rifle or something in his hand at that time.

Q. You saw him in the same pit that he was in when you were going through?
A. Yes.

Q. Did you see him again? A. I did not see him again that day. I had to take a different road the last twice.

(Morin, the interpreter sworn in this case, says he has been interpreting this to the prisoner as the evidence proceeded.)

By Mr. Scott :

Q. Did you ever have any conversation with the prisoner? A. No, I can't talk Sioux.

Q. He does not speak English, I suppose? A. No.

By Mr. Robertson :

Q. You say that on that occasion, the 12th, when you saw the prisoner in the rifle pits, Riel went and stopped the firing to enable you to get through? A. I said that Riel went and spoke to him, most likely to give some word.

Q. Does Riel speak Sioux? A. I don't know. He can speak a word or two I believe, but he talks Cree and English, I know. All he would have to do in passing would be pointing to me when I had a flag in my hand.

Q. There was firing going on at the time? A. Yes, firing was going on at that time.

Q. And a pretty brisk fire? A. No, more like skirmishing.

Q. What is a brisk skirmishing fire? A. Well, there were a good many shots going—not the same as in the afternoon.

Q. It was a pretty dangerous thing to run the gauntlet to that fire? A. No, I can't say so.

Q. You did not think it was? A. I did not think much about that.

Q. You don't think so now? A. No, there must be a certain amount of risk, but anyone is willing to run a risk for a certain object.

Q. But you did not consider it a dangerous thing? A. No, that did not enter into my head at all.

Q. You were perfectly cool and collected then? A. I was not excited. I may have been a little at that time in the morning. I was not even vexed or anything.

Q. And you were not excited? A. Not that I am aware of.

Q. How many trips had you made through the lines before this? A. That was the first trip I made, about 9 o'clock in the morning.

Q. What was your object in making that trip? A. To take up a letter from Riel to General Middleton.

Q. Why did you want to take the letter? Why did you volunteer to take the letter? A. I wanted to do, as far as my ideas were concerned, all I could for the prisoners, and see if it was not possible to do something towards catching Riel.

Q. The prisoners you felt were in danger? A. We always considered it a trifle that way.

Q. A trifle? A. Well, some of course considered themselves in more danger than others did. Some days in case of excitement, of course, there was more danger than there might be at other times.

Q. And that was a day of excitement? A. Yes; three days previous to that a little more than it was just at that time.

Q. And the prisoners thought they were a trifle in danger? A. Yes; some thought more and some less; they didn't all think the same.

Q. You thought they were only a trifle in danger, did you? A. No, some days I thought our chances were rather slim.

Q. That day? A. That day I thought if things worked the way I wished they would be all right,

Q. Suppose they did not work the way you wished? A. They would be all wrong.

Q. Didn't you, as a fact, think that all the prisoners were in a dangerous—danger of being killed that day? A. I did, if things went one way.

Q. That was the reason that you wished—? A. To do all that was possible.

Q. But you were not in the least excited about it? A. No, not that I am aware. I was perfectly cool at that time.

Q. How many Indians did you see when passing through these lines? A. I did not see all of White Cap's band, and I saw One Arrow's and some more Crees. There may have been, perhaps, about, that first time I saw, about 40 or 50.

Q. And a lot of half-breeds? A. I did not see many half-breeds that time.

Q. How was the prisoner dressed? A. He used to be—

Q. How was he dressed on that occasion? A. I could not notice him on that day. I noticed his hair more. I know him by sight well enough to swear to him.

Q. You cannot tell how he was dressed on that day? A. No.

Q. Can you tell us anything that he wore in particular? No; I know him more by his hair than anything else, by his features, more by his hair than any other thing I can judge by.

Q. You cannot tell how he was dressed? A. I did not take particular notice of how he was dressed, they were all dressed so much alike.

Q. Indians do all dress very much alike? A. A great many of them, yes.

Q. Well, what is this dress they all wear, that they all wore on that occasion? A. Ordinary breeches, whatever you like to call them, breech-clout. Some of them on that day were wearing very slim costume, but some of them had a kind of blanket coat that time in the early spring, but I would not like to swear what he wore.

Q. Don't give us generalities. On that occasion what was this dress that most of them wore? A. Just ordinary blanket leggings, and blanket coat.

Q. What did they have on their heads? A. Some, nothing at all.

Q. And others had what? A. Others had a kind of a fur coat, and some went even as far as a plug hat.

Q. Then they did not all dress the same? A. No; the general class, as I said, wore blanket leggings, and blanket coat. Of course, there were exceptions.

Q. But the head dresses were different? A. Just a few; many of them were without a hat of any description.

Q. What head dress did the prisoner have? A. He used to wear—at that time I did not notice what he had on that morning.

Q. You don't know what he had on that morning; now, how many Indians were there at Batoche altogether? A. I saw about 150.

Q. That was in the camp? A. Around Batoche.

Q. And there were a number of old men among them? A. Yes; a good many.

Q. Now the prisoner says that you are completely mistaken about his being there; he says that he was not in the rifle pits that day, that he was back at the church? A. Well, that is where we differ, perhaps.

Q. Now you are prepared to —? A. I am prepared to swear that I saw him in that rifle pit.

Q. And you are prepared to swear that, notwithstanding the risk you were running? A. Certainly.

Q. You were so cool that although there were a lot of other old men out of about 150 Indians that you had been in the habit of seeing, in the excitement of that moment, when you were not thinking about anyone in particular, but you were going in the hope of saving the threatened lives of the prisoners, your fellow-prisoners, with a fire going on all around you, a rifle fire, although you tell us you did notice even what head dress the old man had on, yet you are prepared to swear you recognised his face so distinctly that you can distinguish it from those other old men that you saw among the Indians those different times? I did not see 150 that day by a long sight. I know his face as well as I know my own.

Q. You think you do? A. I do; yes.

Q. You are one of those confident men that is always sure? A. No; not at all.

Q. You are not A. No; I am certain about that.

Q. You are sure you were not excited? A. I was not excited.

Q. You are sure of that? A. I am certain of that.

Q. And you are as sure of that as you are that you saw White Cap? A. Yes; certainly.

Q. Now where was it you saw him on any other occasion, the second time that day? A. When I was coming back, after taking the note to the general, I came back as near as I could tell to the same place, so as they would know me, and I saw him again at that same place.

Q. That is you saw the same man you had seen before? A. Yes; I saw White Cap.

Q. Did you notice his head dress then? A. Not at all.

Q. Was he bareheaded then? A. I did not notice—I only noticed when coming out, I was afraid of some of them firing at me in passing rather too close to them, and I heard him holler something, and saw what he meant.

Q. How far were you when you heard him holler? A. About 40 yards.

Q. And there was firing going on? A. Very few shots at that time. There had been one shot fired at me, because they did not know what I was doing, I suppose.

Q. But there were not many shots? A. The general ceased firing, when I went out and met him the first time.

Q. The Indians had ceased firing? A. There was an odd shot.

Q. You were 40 yards away and heard White Cap——? A. I heard him holler something, but I thought from the way it was done it was to leave me alone.

Q. Are you prepared to swear to that, that you recognized his voice? A. Well, I recognized——

Q. Did you recognize his voice? A. I did not recognize any man's voice, but I say it came from the position where he was.

Q. Were there any other Indians close to him? A. Not that I saw. There may have been in the pits.

Q. He was alone then at that time? A. Standing on the side of the pit by himself. I thought he was doing me a good turn.

Q. Did you see his mouth move? A. No, I heard——

Q. You did not see his mouth move? A. Not from where I was.

Q. You heard someone shout? A. I heard someone shout.

Q. And you saw him standing there, and now you are prepared to swear it was White Cap that shouted? A. I thought so at the time, for I thought he was doing me a good turn.

Q. You thought you recognized him on the previous occasion also—are you prepared to swear to them both? A. The first time I went out I did not hear him say anything.

Q. You said you recognized him the first time you went out? A. I did recognize him.

Q. You say also you heard him shout on that occasion? A. Not on the first occasion.

Q. On the second occasion? A. Yes.

Q. You heard him shout? A. Yes.

Q. Are you prepared to swear you did? A. I will swear as near as I feel certain it was him who hollered, doing me a good turn.

Q. You feel certain now? A. Yes.

Q. You felt just as certain it was him that was shouting as you felt it was White Cap himself? A. I was certain it was White Cap, but there might have been somebody else hollering. At the same time I gave him credit for doing so.

Q. Then that was the second occasion on which you saw him? A. That was the second occasion that day.

Q. When did you see him again? A. I did not see him again that day at all. The next time I went out I had to go a different road.

Q. Where did you see him, before that, or after it; you say you saw him coming into Batoche? A. Yes, somewhere about the 10th of April.

Q. That was into the little hamlet or village at Batoche? A. Yes.

Q. Were you present? Yes, up stairs in the front room, in a room over the store.

Q. Did you see him at Fish Creek? A. No.

By Mr. Scott:

Q. How long have you known the prisoner? A. Off and on since I have been in that part of the country, three or four years.

Q. Then you have known him three or four years? A. Yes.

By Mr. Robertson:

Q. What has his character been during that time? A. Always heard White Cap rather well spoken of.

Q. And his band? A. His band always get about the same thing, heard about the same thing. He kept his band good with him.

Q. Did you ever hear anything against him before? A. I never heard anything against him.

By Mr. Scott:

Q. Nothing against him? A. Except this concern of the rebellion.

WILLIAM TOMKINS SWORN—

Examined by Mr. Scott:

Q. You are interpreter for the Indian Department living at Carlton? A. Yes.

Q. What happened to you about the 18th March? A. I was taken prisoner.

Q. By whom? A. By Riel and his followers.

Q. Where were you taken prisoner? At Batoche.

Q. Where were you taken to? What places were you confined in? And what times? A. Confined in the church at Batoche, and afterwards taken over to Walters & Baker's store, and from that back to the church again, and from there to Garnot's restaurant.

Q. You say Riel and his followers, of whom did his followers consist? A. Indians and half breeds.

Q. To what extent? A. 400 or 500 I should think.

Q. What state were they in? A. In a state of rebellion.

Q. Were they armed? A. Yes.

Q. Where were you on the 26th March? A. At Duck Lake.

Q. As a prisoner? A. Yes.

Q. What happened on that day? A. A battle took place.

Q. Between whom? A. Between Riel and the rebels, and the police and volunteers.

Q. How do you know there was a battle? A. Well there was a wounded man brought up to where they were, and Riel told us himself.

Q. When did he tell you? On the same day? A. Yes.

Q. What did he tell you about it? A. He told us that they had a grand victory.

Q. Did he say what was done? A. He said that they had killed so many people, or there were so many killed.

Q. How long were you kept a prisoner? A. Two months, all but a day.

Q. What day were you released? A. Twelfth of May.

Q. By whom? A. By General Middleton and his forces.

Q. Did you see the prisoner? A. Yes.

Q. When did you first see him after you were imprisoned? A. I seen him about the 10th April, to the best of my knowledge.

Q. Where? A. At Batoche.

Q. What was he doing on that day? A. Well, he came in there with the rest of his band that used to be generally taking part in butchering cattle. I used to see more killing cattle than anything else.

Q. You saw him coming in on the 10th April with his band? A. Yes.

Q. Were they armed or otherwise? A. They were armed.

Q. Where did they camp, do you know? Did they remain there any length of time? A. Yes, they remained there.

Q. Up to what time? A. I did not see him after the 12th May. I don't know where he went. He remained there till the 12th May, to the best of my knowledge.

Q. How many times do you think you saw him between the 10th April, when he first came in, and the 12th May? A. I could not say to the exact number of times. I saw him quite frequently.

Q. You did not see him doing anything except butchering cattle? Yes.

Q. Did you see his men doing anything? A. Yes, they were helping him.

Q. Did you see them doing anything else. A. They were carrying arms.

Q. That is all you saw? A. Yes. (Interpreter says he has interpreted this to the prisoner.)

By Mr. Robertson:

Q. The cattle you saw him killing were the cattle in the camp? A. Yes.

Q. Is it a remarkable thing for an Indian to carry his gun? A. No.

Q. An Indian carries his gun wherever he goes, doesn't he, at all times? A. Yes, excepting they are going after some grub or rations.

Q. Whenever he goes out from the place where he ordinarily lives he almost always takes his gun? A. Most generally.

Q. White Cap had nothing more with him than he would usually have in time of peace? A. No.

Q. The object of this rising as you understood it, I believe was to obtain the rights of the half-breeds to their lands? A. Yes, to make a new Government.

Q. It was to force the Dominion Government wasn't it, to give them what they claimed as their lands? A. Well, that is what they say.

Q. All you know about it is from what you heard them say isn't it? A. Yes.

By Mr. Scott:

Q. You say they had another object in rising besides getting their rights to the lands, what was their intention? A. Their intention was to kill everyone that was in the country.

By Mr. Robertson:

Q. How do you know that? A. —

Mr. Scott—He heard them say it.

By Mr. Robertson:

Q. Kill everyone in the country? A. Yes, try to take the country.

By Mr. Scott:

Q. And what were they going to do with it? A. Sell it to the United States was what Riel told me.

PHILIP GARNOT SWORN:—

Examined by Mr. Scott:

Q. You were living at Batoche in March last, were you not? A. Yes.

Q. What happened about the 18th March there? Shortly after the beginning of March, was there anything happened in that neighborhood? A. From the 18th March, the beginning of the uprising.

Q. What kind of an uprising? A. A rebellion.

Q. About the 18th March a rebellion broke out there? A. Yes.

Q. Who broke out into rebellion at that time? A. Half-breeds around Batoche and the vicinity.

Q. To about what number? A. On the 18th there was about 40.

Q. And did the number increase or decrease after that? A. It increased almost daily.

Q. To what extent? A. It must have come to about 400 I think.

Q. Are there any others besides half-breeds there? A. Half-breeds and Indians.

Q. Were there any Indians at the first, at the beginning, or did they join them afterwards? A. There were some Indians at the beginning.

Q. And the number of Indians increased as well afterwards? A. The number of Indians increased as well.

Q. Who was the leader of the rebellion? A. Mr. Riel was supposed to be.

Q. What did they do during the time they were in rebellion? A. They were fighting.

Q. What was the first fight? Where did it take place? A. At Duck Lake.

Q. Were you present? A. I was not. I was at Batoche.

Q. How do you know there was a fight there? A. I got into Duck Lake after the fight was over, and I saw the battlefield.

Q. Did you hear anyone saying anything about it? A. Yes, I heard people talking about it.

Q. Who? A. I could not mention anybody in particular, but almost everybody was talking of the fight. I heard the firing from Batoche.

Q. You were in the rebellion as well? A. Yes, I was.

Q. What position did you hold? A. I was secretary for the council.

Q. To what council? A. Riel's council.

Q. Secretary to the rebel council? A. Yes.

Q. When was that first constituted? A. I was not present when it was —

Q. When did you first know of its existence? A. From the 21st of March.

Q. Was that the date of your appointment as secretary? A. That was the date that I was brought in there.

Q. To act as secretary? A. To act as secretary.

Q. And did you continue to act? A. I continued to act till the end of the 12th of May.

Q. How many members were there of that council? A. I think fourteen. I would not be positive, though. There was a lot of members absent most of the time.

Q. Did you see the prisoner there during that time between the 18th of March and the 12th of May? A. Yes; he was not there at the beginning.

Q. When did you first see him there? A. I could not tell you the date; it must have been three weeks anyhow after the beginning of the rebellion.

Q. Then you think it was about that time that you first saw him? A. It was about that time.

Q. Do you know how he came in there—how he happened to be there? A. There was some men sent for him.

Q. By whom? A. By Riel, I think. I think they were sent by Riel.

Q. How many men? A. Two men.

Q. Is that all? A. Yes.

Q. Those two men were sent for him by Riel, and did he come in a short time after, or did the men come back first, which? A. They came in together; one man came in about a day ahead of him. He was camped about ten miles from the place then, I think, that is what that man reported.

Q. He reported that White Cap and his band were camped about ten miles off? A. Yes.

Q. And then he came in next day with the other messenger? A. Yes.

Q. Him and his band? A. Yes.

Q. Of what number does this band consist? A. About eighty men.

Q. In what state were they as to arms? A. They were mostly all armed.

Q. You saw them, I suppose? A. I saw them coming in.

Q. Was there anything done in the council as to White Cap? Did he appear before the council at any time? A. The day that he came in, or the next day, I would not be sure, he was appointed as a councillor.

Q. As a member of the council? A. Yes.

Q. Was he present at the time of his appointment? A. He was present.

Q. The deliberations of the council at that time, at the time of his appointment, in what language were they conducted? A. Mostly always conducted in French and Cree.

Q. The prisoner, I understand, does not speak Cree? A. I don't believe he understands neither French nor Cree.

Q. You say he was appointed a member of the council; was he made aware of that? A. There was an interpreter that made him aware of that fact; he was told to tell him.

Q. There was an interpreter there who was told to tell the prisoner that he was appointed? A. Yes.

Q. That he was appointed a member of the council? A. That he was appointed a member of the council.

Q. And then immediately after the interpreter was told that he spoke to the prisoner? A. He spoke to him right away.

Q. That is all you know about it? A. Yes.

Q. Well, was the prisoner in the council after that, the day of his appointment? A. He was there occasionally.

Q. How often? A. I could not say that; that is pretty hard to say; I wasn't there all the time myself, but I have seen him there many times.

Q. Did he ever take any part in the deliberations? A. Only once or twice, I think, that I heard him talk to the interpreter, that I remember.

Q. What tribe did this interpreter belong to? What was his name? A. La-bombarde.

Q. What Indian nation did he belong to? A. I think he is a French half-breed, but I am not sure.

Q. Did you ever see the prisoner with arms? A. No, I never saw him with arms.

Q. Did you ever see him doing anything else during the time he was there? A. No.

Q. Did you ever see him outside of the council at all? A. Well, I saw him downstairs, where I met him all the time I was in the council room.

Q. That is the only place? A. That is the only place where I saw him. (Interpreted to prisoner by the interpreter.)

By Mr. Robertson:

Q. You saw the prisoner about the camp, didn't you—about the village of Batoche? A. I might have met him, but I don't remember seeing him. I might have seen him, but I don't remember.

Q. The cause of this rising, I understand, Mr. Garnot, was that the half-breeds of Prince Albert and that neighborhood were seeking to get the Government to give them titles to the land upon which they squatted up there, the land which they had been occupying—is that true? And the Government had refused or rather had neglected to give them those titles? A. Well, I have heard that.

Q. Don't you know it yourself? A. Don't know anything about the rebellion until I was brought into it on the 21st March.

Q. You were brought in on the 21st March? A. I was brought in on the 21st March.

Q. Well, don't you know that the prime object of the movement after the 21st March was to make the Dominion Government attend to the rights of the half-breeds there and give them their lands? A. I have heard so.

Q. Well, that is what you understood, as being the secretary of their council? A. Yes, that is what I understood. Of course, I have heard so. I never saw any.

document that could prove to me that it was for that purpose that the rebellion was commenced.

Q. You were secretary, they made you secretary, of their council, and that was what you understood as secretary, wasn't it? A. Yes, that is what I understood as secretary.

Q. That was the object of it, to get their lands? A. I think so.

Q. Well, you understood it so from them? A. I understood it so, yes; but you must understand I am under oath, and I can't swear to a thing to be sure of unless I am.

Q. Now, was there any serious expectation that they would be able to drive the Dominion Government out of the country? A. No, I don't think so.

Q. Isn't it the fact that they were simply rising in the hope that by rising they would obtain the attention of the Dominion Government by petition? A. I have heard so.

Q. Well, that is what you understood, wasn't it? A. Yes, that is what I heard.

Q. And did they want anything more? Were they aiming at anything more than that, that they would rise and they would force the Dominion Government to attend to them, and then force the Dominion Government to give them their titles to their lands? A. Yes.

Q. That was the whole object? A. Yes, because they were expecting every day that delegates would come.

Q. They were expecting every day that some one would come from the Government and treat with them? A. Yes, I have heard that almost every day.

Q. Now, you were taken there by force, I believe? A. Yes.

Q. And against your will? A. Yes.

Q. And made secretary of that council in spite of yourself? A. Well, of course I had my choice to run the risk of what might have been done to me if I had refused to do so. I was alone in the town. I was the only one that had not joined them then.

Q. And you were afraid, as matter of fact, that if you had not done as they told you it might have been the worse for you? A. I thought so, yes.

Q. And that is the reason you did act? A. That is the reason I did act.

Q. Now, it is a fact, is it not, that Mr. Riel and his council, those who were heartily with him, got a great many people, both Indians and half-breeds, about him by frightening them and threatening them? A. Well, I have heard a great many saying so.

Q. Do you know what means he took to get this White Cap and his band to come in and join him? A. Yes.

Q. Do you know was there a council meeting as to what was to be done? Was there any council, any discussion at the council, as to what was to be done to get him and his band to come in? A. I was in the council when the men were sent for him. There were two men sent out to ask White Cap to come and join them.

Q. Now, hadn't White Cap before that, hadn't they tried before that to get White Cap to join them? A. They did try, but it was before I was there.

Q. This was almost immediately after you came in, then, that the messengers were sent? A. Yes, the 22nd or 23rd March. It was before the Duck Lake fight that they went.

Q. Now, what was the message? Do you know what message was sent to him? A. That is all I heard, unless there was other messages. I heard Riel say to the messenger to ask White Cap to come and join them.

Q. Didn't he send a threat that if he did not come —? A. No, I never heard it.

Q. Are you now under sentence for a part in this? A. Yes.

Q. You have been sentenced for seven years, I believe? A. Yes.

Q. Do you know that the cattle of White Cap's band were taken possession of by the half-breeds? A. No, I never heard it, that he had cattle.

Q. The fact is, then, that you know very little about White Cap except that you were there when they made him a member of the council and told him so? A. Yes, that is about all I know; all I said is all I know about it.

Q. Was he asked before he was made a member of the council if he would join?
A. It would be about the same as what I answered before—I could not say because I don't understand Sioux.

Case for the Crown here closed.

DEFENCE.

GERALD WILLOUGHBY sworn:—

Examined by Mr. Robertson:

- Q. Mr. Willoughby, you live at Saskatoon I believe? A. Yes.
Q. And have lived there for some time? A. Yes.
Q. And you have traded in the neighborhood of Prince Albert also, have you?
A. Not as far north as Prince Albert.
Q. What is your occupation? A. Trader and storekeeper.
Q. Do you know the prisoner? A. I do.
Q. How long have you known him? A. Nearly three years.
Q. Have you known him well or only slightly during that time? A. I have known him very well.
Q. Of what nature has your intercourse with him been? A. Business.
Q. Trading? A. Trading.
Q. With him and his band? A. With him and his band.
Q. What can you say as to his character for truthfulness, for honesty, for friendliness to the white people; what can you say as to those points? A. As far as I have known White Cap, I have never known him—I can say that I have never known him to tell me a lie, that is as far as honesty is concerned, and as to his friendliness towards the whites he has always evinced it and in our neighborhood there he is treated as a friend by all the whites.
Q. In your neighborhood where he is known? A. He is perfectly known through all our settlement, and he is taken as a friend in the whites' houses.
Q. Is he an ordinary Indian or is there anything—? A. No, I don't consider him an ordinary Indian.
Q. What do you consider from that point of view? A. I consider him a very much superior Indian.
Q. Is he kind or is he cruel? A. He is very kind.
Q. And has always been as far as you know? A. As far as I know.
Q. Is there anything remarkable about his manner of life as an Indian? A. He lives very much more in a civilized way than any other Indian I have ever known, and tries to instil that into his people.
Q. And tries to teach his people to do the same? A. In a farming way.
Q. Does he work at his farm? A. He does, he grows grain as far as he can and has land under cultivation every year.
Q. And does he try to teach his people, his tribe, the same? A. He does.
Q. Do you know has he ever shown you in any way that he has a sense of the position he holds in this country, he is an American Indian? A. Yes, he is an American Indian. He has told me that he is.
Q. What has been his view of his position in this country? A. He has told me that he considers his position here of course as that of a dependant on the Government being an American Indian. One instance that leads me to know more about that than anything else is that a year ago last spring he came to me and wanted me to go up—

Mr. Scott.—I object to that statement.

Mr. Robertson.—Strictly, perhaps it is not regular. I only wished to show that he recognized his position here and was grateful to the Government for it.

Court.—You have got that.

By Mr. Robertson :

Q. Did you see White Cap at any time during the troubles? A. Yes, I saw him twice. Once previous to his starting from home for the front, and at the time of his going to the front.

Q. Tell us how it came about that you met him on those different occasions? A. The first time, I went down to see Norbert Welch who kept a store at Round Plains to get some ammunition for our own use at home at Saskatoon, and I stopped at White Cap's house when I was between my place and Norbert Welch's and I stopped there at his house, and I stayed there for probably an hour or an hour and a half talking to him and the other Sioux about the outbreak, &c.

Q. Was there any sign at that time as to their intentions either one way or the other? A. I asked different ones of them that I knew were staunch friends of his whether they were going to the front or not, and asked him whether they were going to the front or not, and he said no.

By the Court :

Q. Was White Cap present at the time? A. Yes, it was in his own house.

Mr. Scott.—I object to this being given as evidence, even what White Cap said on that occasion.

By the Court :

Q. The outbreak was on then? A. Yes.

By Mr. Robertson :

Q. When was the second occasion that you met him? A. At the time that he passed or sometime on his way north.

Q. Be particular and tell us how it happened you met him on that second occasion? A. Well the evening before he passed Saskatoon he camped two and a half or three miles south on the trail. I had an appointment to meet a certain person out there at their own house on that evening, and White Cap came to them to speak about the trouble and wanted to see me. White Cap wanted to see me, being the only one that could speak Sioux there. The person told him that I was coming to their place that evening, and he said that would be all right, it would be perfectly suitable as long as the half-breeds did not come. Something kept me that I could not get there that night; it was not very important that I should be there, and I did not get there. White Cap came to see me at the house, I understood—I was not there. We knew, of course, that night—one of the men came up to tell us they were on their road up. I had seen them the day before down below, but I had not been speaking to him, of course, and there were three parties sent by Saskatoon people to ask White Cap to go back to his reserve, and that he would be perfectly safe in doing so, and I was sent as interpreter for them, for these three persons.

Q. Who were they? A. There was Mr. Copeland, Mr. Hamilton and Mr. McGowan.

Q. These were the people that went? A. Yes.

Q. Now, had you seen White Cap before that on that occasion about that time? A. I had seen him the day before—I had seen him, but just spoke to him, had no conversation.

Q. Well, has White Cap got a brother? A. He has a brother.

Q. Had you seen that brother before that? A. Yes, his brother was working there for a person in the neighborhood, and was there before the trouble some time, I can't say how long.

Q. Well, did his brother come to see you at any time before these three gentlemen went to see him? A. Yes, as I had not gone down the night before, he sent his brother in the morning. He was afraid to come himself he afterwards told me, but he sent his brother up to tell me or to ask me to tell white people of Saskatoon that he wanted—

Court.—This is not evidence.

Witness.—I only know this that from what his brother said—

Q. Well, his brother did come to you as a messenger from him at all events?

A. Yes.

Q. And as a consequence of what the brother told you, what did you do? A. Well, we got our arms together. The white people that were there in the settlement at the time got their arms together and got one place ready to meet them when they came up.

Q. Ready to meet whom? A. The half-breeds, and we sent out and met the half-breeds when they came up, and the spokesman, Mr. Copeland, told them he understood White Cap did not wish to go to the front.

Mr. Scott.—I object to that as evidence, what Mr. Copeland told the half-breeds.

By Mr. Scott :

Q. Was [White Cap] present? A. Yes, White Cap and the half-breeds were together.

Q. Were you there? A. I was there; yes.

By Mr. Robertson :

Q. Had nothing occurred between you and White Cap before this personally? A. The only thing that occurred to me was, that White Cap had told me that he did not want to go to the front, and wanted me to get the white people to help him get back to his reserve.

Q. He had done that before? A. Oh, yes.

Q. And it was in consequence of that that the white people went with you? A. Went with me; I was coming to that before, but I was stopped.

Q. And he told the half-breeds that he did not want to go? A. And that he wanted to know why they were taking him; and White Cap came up to the front with the half-breeds when we were speaking to them; and they had his cattle, of course, and his whole outfit with him. They were driving his cattle.

Q. The half-breeds were? A. Yes, some half-breeds on horseback were driving the cattle up. The Sioux were not on horseback. They had jumpers. White Cap is the only Sioux, that I remember, on horseback, and the breeds were on horseback driving up the cattle and loose horses; and when we told this half-breed that we understood that White Cap did not want to go up, he said White Cap could speak for himself, and I turned around then to White Cap and I asked him if he was going to the front, and he said he did not know; just shrugged his shoulders and said he did not know, and he apparently did not know what to do. Of course, the half-breeds were keeping me away from White Cap as much as they could. They did not want me to get near him if they could help it, and any time I would go to speak to him myself, they would shove in between and keep me away from him, so that I could not get much chance to speak to him until afterwards, and there was great excitement there, and they all passed on, shoved on, and there was nothing more said of any consequence then. I met him afterwards, of course, and had another conversation. After they had moved on out to the other side of the town on their way north, I followed him over to a house that he stopped at to get a cup of tea, and had a long talk with him then personally.

Q. On the subject of his going? A. Yes.

Q. Now, can you tell me what took place there on that subject? A. I told him exactly his case—if he went what his position would be—if he went up there he would call himself a rebel. I told him if he went back quietly to his reserve that there would be no danger, that he was perfectly safe in doing it, and he did not seem to think so; he seemed as though—

Q. Why did you say that he would be perfectly safe? A. I knew at the time that he was afraid; he was afraid to go back; afraid of the half-breeds. Some of his own parties were against him, and those and the half breeds that were with them were more than those with himself.

Q. The half-breeds were more numerous? A. Yes, and they were helpless then.

Q. You say you know White Cap well? A. Yes.

Q. And you had this conversation with him at this time? A. Yes.

Q. Did you then believe, and do you believe now, that he really was or that he was not afraid of the half-breeds? A. He told me so at the time, and I believed him.

Q. Do you believe him? A. Yes, I believed him then, and I still believe him.

Q. Do you believe that he would have gone and joined Riel if he had not been afraid? A. No, I believe he would not.

Q. Do you recollect anything being said about his fighting? A. Up at Batoche?

Q. At that interview or any of those interviews you had with him? A. He told me then that he would never fight, that even if he went to Batoche he would not fight.

Q. Well, what was said that led to that? A. I told him at the time that if he went there and fought against the Government, that he would be thrown out of his reserve, and I told him he could not go back to the American side, and I just asked him what would become of him, and he seemed to get rather angry at the idea that I thought he would go there and fight, and told me different times repeatedly that he would not fight even if he went there.

Q. Do you think that he really was indignant at your suggesting the idea he would fight? A. I could only say from what appeared to be, he appeared to be very indignant.

Q. He appeared so to you at the time? A. Yes.

Q. And you did not think he was shamming? A. Oh, no; I did not.

By Mr. Scott:

Q. The first talk, Mr. Willoughby, you had with the prisoner was the time you went down to Norbert Welch's for ammunition, was it? A. Yes.

Q. Had the outbreak commenced at that time? A. Oh, yes.

Q. What day was it? A. I can't say, probably about the 25th of March.

Q. I understood you to say that he was not then decided as to whether he was going or not? A. He told me he was not going.

Q. At that time? A. Yes.

Q. Then the next conversation you had with him was when he was on his way up, was it? A. Of any consequence—yes.

Q. In which anything was said about his intentions as to joining the rebels? A. Yes—no; he spoke somewhat of joining the rebels, the day he came up as far as Saskatoon.

Q. That was when he was some three or four miles out? A. Probably six or eight miles.

Q. How far is his reserve below Saskatoon? A. About sixteen miles.

By the Court:

Q. Is that closer or further off from Batoche? A. Further off.

By Mr. Scott:

Q. Then he was on his way up when you had the second conversation with him? A. On his way north; yes.

Q. Did you hear that he was going north at that time? Did you go out to see him? A. No, I was going to another person's house.

Q. Had you heard before you saw him that he was on his way north? A. No.

Q. Did you suppose at the time you saw him or just before you saw him, that he was on his reserve? A. Yes; I supposed at the time that I met the whole outfit—I supposed he was quietly on his reserve.

Q. Until you met them, you supposed he was on his reserve? A. Yes.

Q. What was said on that occasion? Did you ask him where he was going? A. No, I did not ask him. I knew—I formed my own conclusions. I did not ask him.

Q. Had you any conversation with him at all? A. Yes; I had some conversation with him.

Q. What was it? A. I said to him that he had better not go further than Saskatoon. I told him to turn around at Saskatoon and go back home again, and I had not any chance—I dared not say much to him then.

Q. Why? A. On account of the half-breeds.

Q. How many half-breeds were there there? A. There were about eighteen.

Q. Did you know any of them? A. Oh, yes; I knew a good number of them.

Q. Where were these half-breeds from? A. Some of them were from Round Plain, where Norbert Welch has his store.

Q. In the neighborhood of White Cap's reserve? A. Yes; Some few miles from it.

Q. Some of the half-breeds were from there? A. Yes.

Q. Do you know whether there were any from the north? A. Yes.

Q. How many? A. I could not say how many there were from the north.

Q. How many were there from the Round Plain? A. That I knew there were about six or eight, I believe.

Q. Is Norbert Welch a half-breed? A. Yes.

Q. Was he one of them? A. He was one of them, though he did not go through. He stopped at Saskatoon.

Q. And what did he do after that? A. After he stopped at Saskatoon he went to Qu'Appelle.

Q. Was he a rebel do you know? A. I don't know.

Q. But you saw him that day? A. Oh, yes.

Q. With the others? A. Yes.

Q. What were they doing when you saw them when you were there, were they marching or camping? A. Well, they camped just after I saw them first, after I sighted them first.

Q. What time was that? A. They camped for dinner.

Q. Then was it the next day afterwards that they camped up near Saskatoon when the citizen's committee went out to see them? A. Yes, the following day.

Q. How many half-breeds were there there at that time? A. The same number.

Q. You say Norbert Welch stopped at Saskatoon; well, didn't you ascertain something about his feelings about the matter—about the rebellion, whether he was a rebel or not? A. Well, I don't like to say anything about Norbert Welch.

Q. But I want you to say—I want to know whether these eighteen half-breeds that were with the Indians going up were rebels or not? A. They were, as we considered, rebels excepting Norbert Welch, and we did not know anything about him. We were afraid of him.

Q. Didn't he say anything himself? A. He said, he said something about himself, but we did not believe him.

Q. At all events he helped them there? A. He helped them there.

Q. Were those other men from Round Plain rebels? A. They were rebels. One of them was killed.

Q. They went up to Batoche? A. Yes.

Q. How many Indians were there? A. Probably twenty—not more.

Q. Not more than twenty? A. No.

Q. Not more than twenty men in White Cap's band? A. Not more.

Q. I understood you to say that White Cap sent for you and then you saw him, and he complained that he was being taken up to Batoche by the rebels? A. Yes. He told me that he was being taken.

Q. And he wanted, I understood, I don't know whether you said it this time, but I understood from other sources that he wanted the citizens to help him to escape? A. Yes.

Q. Did he ask you to ask the citizens that? A. That was the message he sent by his brother.

Q. That he wanted the citizens of Saskatoon to help him to escape from the half-breeds? A. Yes.

Q. Was that it? - A. That was the idea.

Q. Well then, what did the citizens do? A. They told us: better to tell White Cap that if the Indians would strike the first blow against the half-breeds that the white people would help them.

Q. That if the Indians would strike the first blow against the half-breeds, the white men would help them? A. Yes.

Q. This message was sent up before they reached Saskatoon, was it? A. Yes.

Q. And the answer was sent back before they reached Saskatoon? A. Yes, I guess he got the answer before he reached Saskatoon.

Q. Then he got notice from the whites that they were prepared to assist him if he would help himself? A. Yes, that was the substance of it.

Q. When did the band reach Saskatoon? A. About nine o'clock in the morning, I think.

Q. Was it then that the citizens' committee went out to meet them that you went out with them? A. Yes.

Q. Was there anything said during that meeting there about White Cap going back? A. That was what the conversation was.

Q. They asked him not to go, to go back to his reserve? A. Yes.

Q. Well how many citizens were there there at that time; how far was this from the settlement? A. Right at the store, in front of the store.

Q. How many citizens were around there at that time? A. Probably eight or nine.

Q. Were they armed? A. Yes.

Q. Well how many citizens were there there altogether, in the town? A. There were about 18 or 20.

Q. Where were the others? A. I don't know. They were away.

Q. Were there 9 fighting men in the town that day? A. I think so.

Q. At all events they all gathered there? A. That were in town.

Q. Prepared to defend themselves and to assist this man? A. Yes.

Q. That was what they were there for? A. That was what they were there for.

Q. Well, did White Cap know it that day? A. I can't say whether he knew it or not.

Q. Well, what was the conversation that took place with White Cap that day? A. Well, the conversation was not with White Cap, it was with the breeds. They would not let us go near White Cap.

Q. But I understood you to say they tried to keep you away, but you had some conversation with him? A. I just asked him simply not to go, and he did not say anything at that time. He did afterwards.

Q. Then, in reality, there was no statement made by White Cap at the time that they passed through Saskatoon? A. There was at the time, but not at that conversation.

Q. When was it then? A. Probably half an hour or so afterwards.

Q. Between you and White Cap? A. Yes.

Q. But I mean at the time the citizens were there? A. No, there was nothing passed between the citizens and White Cap himself.

Q. Did the half-breeds interfere with the citizens in any way; did they threaten to attack them or anything of that kind when they were going through? A. No.

Q. You say there were 18 half-breeds and 9 citizens? A. Yes.

Q. Were the citizens a little frightened as to what would occur? A. Yes, certainly.

Q. It was at the conversation after they had passed through, you followed them up I understand some distance beyond Saskatoon? A. No, just to the other side of the town. Of course, the town is only a couple of hundred yards wide, and I followed him; the house where he stopped was only 200 yards away.

Q. And you had a conversation alone with him then? A. Yes.

Q. And you understood from him then that he was afraid to break away? A. Yes, that is just what he told me exactly.

Q. You think he knew that the citizens were prepared to assist him? A. I can't say whether he did or not.

Q. Did he know the object or cause of the rebellion? A. No, he did not seem to know. He did not know anything about it apparently.

Q. I suppose he knew there was a rebellion? A. Yes.

Q. He knew that was the rebellion he was going to join? A. Yes, that is, that there was rebellion—I don't know about joining.

By Mr. Robertson:

Q. You don't know that he understood he was going to join? A. He told me he was not going to join.

By Mr. Scott:

Q. He said he was not going to join, you understood? A. He told me he would have nothing to do with the rebellion.

Q. You say that White Cap thoroughly understood his position in the country; what is his position; you say he was dependent on the Government being an American Indian—did you ever have any conversation with him as to his previous history? A. Yes.

Mr. Robertson.—What has his previous history to do here?

Mr. Scott.—It is a cross-examination.

The Court.—The previous history may be shown.

By Mr. Scott:

Q. Do you know anything personally about his previous history?

Mr. Robertson.—I submit that is objectionable.

By Mr. Scott:

Q. I ask what the prisoner himself told him about his previous history? A. He was always very reticent about it. He told me once that he had fought on the American side.

Q. Where? A. He did not say where.

Q. Against whom did he say? A. No, nor whom.

Q. Well you have been asked as to his general reputation. What is his reputation? A. As to his history previous to his coming here?

Mr. Robertson.—I object to the question.

Witness.—I don't know that at all.

By Mr. Scott:

Q. Did you never hear anything about him in the neighborhood? A. I know nothing of him only what I saw myself.

Q. Now, wasn't the feeling that he expressed that he was obtaining a sanctuary in this country? Wasn't that what he considered to be his position? A. That the Canadian Government was harboring him?

Q. Yes? A. Yes, that they were giving him a home.

Q. Well, do you know whether or not there was any reason why he had to remain in Canada? Wasn't he fleeing from justice on the other side? A. I know nothing of my own personal knowledge.

Q. That is the expression I have always heard used, that he had a sanctuary here? Wasn't that the case? A. That the Canadian Government was giving him a home.

Q. Harboring him? A. Harboring him.

This closed all evidence in the case.

ADDRESS OF PRISONER'S COUNSEL.

Mr. Robertson.—May it please your Honors and gentlemen of the jury: Since the conviction of the Big Bear, I have felt that it is almost a hopeless task to attempt to obtain from a jury in Regina a fair consideration of the case of an Indian. It has

seemed to me that it is only necessary to say in this town to a jury, there is an Indian, and we will put him in the dock to convict him. But perhaps in feeling that, I did injustice to the jurymen of Regina. I hope I did. Nothing but such a conviction as that of Big Bear could have brought me to think so, and I try to believe again this morning that I was mistaken in the estimate I formed in consequence of that verdict. I am going to appeal to you now as if you were perfectly fair-minded, as I hope that you are. I am going to ask you, notwithstanding what I have seen in this court already in these Indian cases. I am going to make one more appeal in the hope that this time I have before me men who will regard the evidence against an Indian, and scrutinize it with a desire to do him justice, and not to press unduly upon him, just as fairly as if it were a white man they were dealing with; and I am going to ask you to acquit White Cap and I ask it with perfect confidence in the result, provided only I can get you to consider the evidence fairly and without prejudice.

The charge against this man is that he conspired together with rebels rebelling against the Queen.

Now, let us begin and let me ask you to ask yourselves what likelihood, what probability there was of a man in his position conspiring against the Queen, or in other words, against Her Majesty's Government in this country? What were the probabilities? What was his position? He is an American Indian, to begin with. He is here the guest of this country. He and his band have been given, as he said himself to Mr. Willoughby, and said it with gratitude, as Mr. Willoughby tells you. He had been given here a home, a home where as Mr. Willoughby says he was happy, and, so far as an Indian can be prosperous under the laws as they are applicable to Indians in this country, he was prosperous, he was truthful, he was honest in his dealing with white men, he was the white man's friend, treated as such by all that knew him, and he was industrious, he worked hard on his farm, he taught his tribe to do the same, he was doing everything he could to be a good citizen. My learned friend has attempted to suggest to you that he has some bad character, and that he has fled from justice on the other side of the line. Well, gentlemen, if he was there—if he was, there surely must be something extraordinary in the air on this side of the line to have converted this terribly wicked Indian fleeing from justice in the States, into the man such as Mr. Willoughby described to you—leaving out of consideration for the moment, what is said against him in this rebellion.

Gentlemen, there is nothing against that man on the other side of the border, there is nothing that any honest man need be ashamed of, at all events, we know—we all know how the American treats the Indian. We all know that the poor Indian there is looked upon as the very man to be crushed under the heel of his more powerful brother, called as he should be his oppressor, as he is, the white man. We know that they are the victims of all kinds of chicanery and falsehood and of all kinds of persecution and oppression, and we know that sometimes the desperation to which they are driven by the treatment to which they are subjected, they have, as a last resort attempted to protect themselves and to assert the rights that had been solemnly given to them by treaty with the Government, but of which they have been deprived by its false minions, and possibly that old man has been engaged in some fight with the troops in the States, and he knows the treatment any Indian gets from those troops when he is captured. It is not a fair trial, it is not even such a pretence of a fair trial as has been accorded to some of these men here, but it is a short shrift and a rope or a bullet. He knows that, and he has been weary of the struggle, and in his old age he comes over here, and here he finds comparative protection; here he finds the home that he has been seeking for, and he tries honestly to make the best of it. That was his position when he was here. He had no complaints against the Government. He was grateful to the Government for what it had done for them, and he is there on his reservation, trying to take advantage of the opportunities the Government afforded him. What inducement had he? What object had he to serve in rising against the Government? Why should he rise? My learned friend will perhaps ask you to say he rose out of pureness, because he is an Indian. Mr. Willoughby tells you what kind of a man

he is, and I venture to say the old man is as kind-hearted and a great deal better, honester, more truthful, more kind, and more friendly than many a white man that you and I know. I say his face shows there is not a cruel line in that man's face, and I say that Mr. Willoughby's knowledge of him shows it, and his account of him shows it. Now, Mr. Willoughby is not here to give a man like that a good character if he did not deserve it. Mr. Willoughby is just as much interested, and in fact is more interested, because he is there in the midst of them, in seeing that the men who were really guilty in this rebellion are punished, and he would be the first man to go into the box and tell you anything that could be told against that man, if it were to be told, and there would be much more told in that box against him if it could be told. We have his character then. We have his position. We have the probability. Was he likely, he an industrious, truthful, honest, friendly man, working industriously on his reserve and teaching his tribe to do the same? Mr. Astley tells us the same thing, that he had a good character, and his tribe and band had a good character before, and was it likely that that man would have any inducement to rise against the very Government to which he was grateful for the home that they had given him? Then what did he do? We know from Mr. Willoughby that the old man and his band came up to Saskatoon. They were brought there by eighteen armed half-breeds. They were about twenty in number. Now, twenty Indians to eighteen half-breeds, and on the part of the Indians, a desire to avoid all fighting, the half-breeds in possession of their cattle, remember, which they drove off, their cattle, their means of subsistence, is it to be wondered at that the old man and his band when these eighteen half-breeds came down and took possession of his cattle and drove them off, and told them they were to come up and join Riel? Is it wonderful that he yielded, that he went up? Remember, you must not judge of his conduct as you would judge of the conduct of a white man in the same circumstances.

Now, I have repeated that over and over again to juries here, and every time I have repeated it, his Honor has taken care to tell the jury that the law is the same for a white man as it is for an Indian, and the same for an Indian as it is for a white man. I am not saying that it is not the law. The law is the same for all, but the law is that the man must be proven guilty upon the facts of the offence defined by law, and it is not that I am saying that the law is to be different for an Indian from what it is for a white man. What I say is that you cannot judge of the conduct of an Indian—you cannot draw the same inferences from the conduct of an Indian that you can draw from the conduct of a white man, a white man who has been accustomed to live under civilized forms of government, who understands the importance of maintaining law and order, who knows what a serious thing it is to rise in arms against the Government, when he is asked to go into a rebel camp, he knows the importance of the thing he is asked to do, and he recoils from it, and if he is a loyal man he will resist with all his power any force that is brought to bear upon him to compel him to go, but an Indian is not struck in the same way by a mere order that he is to come up into Riel's camp. That is a different thing altogether. It does not appear here that that old man knew or understood what Riel was after, and as matter of fact he did not. These messengers come down there, and they tell him that they are going to take him up to Riel, he must go with them to Riel. Well, he says these eighteen armed men then walked off with his cattle, and he feels, well I must either fight them or I must go or I must stay here and starve. I will go. I had better go. So he goes, but he does not like it. He does not want to go, and when they get him as far as Saskatoon, he sends and he goes himself over and over again to try and see Mr. Willoughby, the only man in the settlement that could talk Sioux, to try and get the whites to help him to get away and go back to his reserve. Was he honest in that? Are you going to assume in the face of the character that he bears as Mr. Willoughby shows you—in the face of the probabilities of the case, that he was acting all that? Isn't it just the thing you would expect from a man in his position? Wasn't it natural and just the thing you would expect him to do? You would not expect that that man would want to join Riel? He went several times to try and get hold of Mr. Willoughby in order

to communicate with the whites, in order that they might help him to get away; and then we have Mr. Willoughby's account of the interviews he had with him, of how the whites went out and tried to get near him, and tried to help him away. Mr. Willoughby tells us that the message they sent as to what they were going to give them was that if the Indians would strike the first blow, they would help them, but that message never reached them. They go out to meet them, and the half-breeds take precious good care to not allow him to get near them.

Now, gentlemen, if the half-breeds were not taking that man in by force or by fear, why were they so careful to keep Gerald Willoughby from getting near him? Doesn't that show you that they had him there under coercion, that they were ordering him in against his will? And they were determined that the fear they had instilled into him, which enabled them to bring him so far, should not be countervailed by anything that Mr. Willoughby might say to them, and they kept them asunder; but Mr. Willoughby saw him afterwards, and Mr. Willoughby tells you that knowing the man well—he tells you the conversation he had with him, and he tells you that he believed then and he believes now that the man was in fear of those half-breeds, and that it was because he was in fear of those half-breeds that he was going up to their camp. Do you believe it? Then he went. They did take him in, there is no doubt about that. Mr. Astley told us that he saw them coming in—I forget whether it was Mr. Astley who said they were all mounted—yes, he did. He said he saw them, about twenty, all coming in to Batoche on horseback, and all armed. Mr. Willoughby tells you that the only mounted man among them was White Cap himself. Now, I don't say that Mr. Astley deliberately told an untruth, but I say that Mr. Astley, while he wishes to tell only the truth, is one of those impetuous men who speak carelessly, and while I impute to him no intentional falsehood I do say that his evidence is most unsafe evidence for a jury to convict upon, and there is one instance of it. You saw those two men, Mr. Astley and Mr. Willoughby, in the box. Mr. Willoughby told you the only mounted man was White Cap, and there were only about twenty, and Mr. Astley told you that he saw the whole twenty mounted coming into the camp on horseback and armed. Mr. Tomkins said there were about eighty of them came in.

I draw your attention to those circumstances, gentlemen—contradictions, because they show that these two men, Astley and Tomkins, honest as they are, are men that were passing through a very exciting time. They saw everything through magnifying glasses. Although Mr. Astley tells you that on the morning of the 12th May, when he was in terror that the lives of the prisoners were going to be sacrificed, when he was in the hope of saving their lives, riding so gallantly as he did, running the gauntlet of that fire from both sides of that field, although he tells you while he was going through all that that he was perfectly cool. Gentlemen, I ask you to say that Mr. Astley was not perfectly cool, and that Mr. Astley's recollection of all these events is colored and magnified, and magnified to the detriment of all that were opposed to him by the excitement under which he labored at that time, during that time a very natural excitement, and an excitement that he need not be ashamed of, an excitement which he denied. And why? Because he thought that if he admitted that he was excited you might think he might be doubtful about the identity of the prisoner. That is why he would not admit that he was excited. Do you believe he was not excited, gentlemen? Do you believe that he hasn't stretched a point in saying that, and if he stretched a point in saying that, he stretched it because he wanted it to tell against the prisoner, and he would stretch another point too to tell against the prisoner, and he would say he was positive it was him, when in reality he is not so positive as he pretends to be. That is the opinion I ask you to form of Mr. Astley's testimony. It is for you to say whether or not it is correct you think, whether or not I have judged it properly and accurately, and, gentlemen, I ask you to say would you for a moment think of convicting one of your fellow-citizens upon any charge upon testimony so uncertain as that? Because, gentlemen, on the evidence of Mr. Astley rests the whole of this case. If Mr. Astley was mistaken in saying that he saw that man in the rifle pits on that day, then there is no case made out against the prisoner. I say

that. I know his Honor has ruled differently in the other cases, in some of the other cases, but I am going to say a few words on that hereafter.

Now, just ask yourselves as honest men, fair-minded men, trying there upon your oaths the question of the guilt or innocence of this old man, with his previous good character, with all the probabilities against his rising against the Government, ask yourselves would you for a moment think of convicting a fellow-citizen upon such evidence, a white man, and be men enough to say we will give the poor Indian, uneducated, but after all a good old man, we will give him the benefit of the doubt at all events, and we don't feel that we are quite satisfied that Mr. Astley may not have been mistaken as to who it was he saw in the rifle pits on that day? I ask you to say that, but, gentlemen, if he were in the rifle pits, there is not a tittle of evidence that he fired a shot. The same fear that took him into that camp may have taken him out to the rifle pits at the bid of Riel. He may have been impelled by the same fear that took him there. He seemed to Riel to be acting with him, while in his heart he was not helping him one bit, but was hanging back. If Riel's people were able to frighten him into coming in, they were also able to frighten him into going out to the rifle pits. And supposing he was there, it is not shown that he did anything; that he fired a shot. He says, however, that Mr. Astley is completely mistaken. He says he was not in those rifle pits at all. He admits that he was in the camp, but he says he did not go to the rifle pits, and the declaration he made to Mr. Willoughby that if they took him out there he would not fight—the declaration that he made, remember, was of indignation and anger when it was suggested as to fighting. That declaration he stuck to, he says, and he says he was at the church all the time when the fighting was going on—the church which was away back from the lines—he was not fighting.

Now that is the whole case against the prisoner, that Mr. Astley says he saw him out there in the rifle pits that day, and Mr. Astley, and Mr. Tomkins, and Mr. Garnot tells us that he was in the camp, which he admits. Mr. Garnot proves that he was elected a member of Riel's council. Well, gentlemen, you heard the account of that, and did you ever hear of anything more farcical?

The old man talking Sioux, speaking not a word of French or Cree is brought there in fear. He is brought in, invited to come to this meeting, he is taken in there, the proceedings are all conducted in French and Cree. He knows nothing about what they're doing, and then somebody tells him, but we have not the tittle of evidence to prove that he was told that, but they say some one was told to tell him that he was elected a councillor, and that some one spoke to him afterwards. That is the whole extent of that. What does it amount to? It does not appear that he was even asked to join—not a bit of it—but he was brought in there very much as Mr. Garnot was, only even more unwillingly, and he was made a member of council whether he liked it or not. That was Mr. Riel's game. It was the way he played the whole game. He got men about him by one means and another partly by imposition, partly by intimidation. He got them there and made them his councillors whether they liked it or not. They were afraid of their lives to protest, and then they are brought here and convicted because they were his councillors. In this case, the councillor knew absolutely nothing of what was going on. I attach, and I ask you to attach, no weight to that circumstance at all. The same fear that would bring him in there was also enough to take him to that meeting and also enough to make him hold his tongue when they had told him what they had done with him. Then we have the fact that he was in the camp. He was seen there in the camp. Well, gentlemen, his Honor has told juries before in these cases that the mere presence of the prisoner in the camp was sufficient to convict him, unless it was conclusively proved to you that he was prevented from leaving it by the instant fear of death and nothing short of that would excuse it. I have submitted to his Honor with all deference, of course, and I am bound, in the discharge of the duty cast upon me here, not as the hired advocate of the prisoner, for I am not, but because the Government has sent me here to see that if I can, that he gets fair play. I am bound to dissent from that ruling and to protest against it, and I do so. I say that that is not the law. I

say that in a case of this kind, while it is competent to a jury to infer, if they think the circumstances warrant it, to infer from the presence of an accused in a rebel camp, that he is there aiding and abetting, the question is not whether he was there, but the question is whether he was aiding and abetting and encouraging them, and the jury is not bound to infer at all that because he was there, he was aiding them. His being there is not a crime, otherwise the man who was there, if such there were, doing his utmost to defeat the aims of the rebels, would be a guilty man and liable to conviction. His being there is not a crime, but his aiding and abetting them is, his assisting them, his encouraging them in their designs would be a crime. The jury may, where they think the circumstances warrant it, infer from his presence there that he was aiding and abetting, and a jury at all events in the case of a white man, as the cases show, would only be justified in inferring that from his mere presence if unexplained. Where, however, he explains how he came there, and the jury are satisfied with that explanation and satisfied that although he was there he was not willingly there, not that he was kept there by fear of death because that is not it, but that he was unwillingly there, that he was not aiding and abetting and encouraging them, if they are satisfied of that then they should acquit him although he was there. The law about the fear of instant death is this that nothing but the fear of instant death will excuse a traitorous act, but his being there is not a traitorous act. And I ask you, whatever his Honor may tell you, and I appeal to you as six men of sound common sense, whatever his Honor tells you is the law, to do moral justice to that poor old man, and, if necessary, over-ride the law as you have a right to do in these cases, because you are the judges of the guilt or the innocence of that man, and you have a right to apply your common sense to the whole case, and you have a right to say whether that man shall or shall not be punished. In this case it is unnecessary to over-ride the law. The evidence is not such as would justify you in condemning a dog to be hanged, and I ask you to say, whatever His Honor may tell you, that that old man should not be punished for anything he has done in this matter, and I ask you to acquit him. There is one circumstance that has occurred to me while I was speaking, and one remark I should make about Mr. Astley's evidence as to the identity of the prisoner, and that is that although he pretends to say that in the excitement—because I say he was excited in spite of his oath—in his excitement when he was passing between those lines, when he was trying to save, his great and one thought was what he was to do to get to Gen. Middleton, and how he could arrange to save the lives of his fellow prisoners. When that was his one thought, he asks you to say in all that excitement, he recognized the prisoner, but he cannot tell us whether he had a head dress on or not, let alone tell us what kind of a head dress he had on, if any. That is another important circumstance. Gentlemen, you know as to that how easy it is to be mistaken in the identity of a man. Mr. Astley admits there were about 150 or 200 men Indians in the camp, and he says there were a lot of old men among them. Now, gentlemen, you know I am very sure it must have happened to some of you, as it has to me several times, that you have met men in the street in their ordinary garb, and in the ordinary concerns of life, and you have gone up to them to shake hands with them thinking he was an old friend, and you have found you were mistaken. I am very sure that some one of you, at least, has had that experience. It is experience I have often heard spoken of, and an experience I have often had myself, and I have known men so positive that they would hardly believe the man they were speaking to was not the man they imagined him to be, an old friend too. I have seen other men go up and address my own father over and over again, mistaking him for another man—and they are both somewhat prominent men and somewhat well known, they being both members of the House of Commons and somewhat well known to the public of Ontario—I have seen my father, on two occasions, mistaken for that other man. Gentlemen, it is a very easy thing to be mistaken, and when a man, in all the excitement of that time, tells you he could recognize that old man's face, and is prepared to swear he saw him there, although he cannot tell whether he had anything on his head or not, or what he had on his

head—I say it is most unsafe evidence, and I say it is too doubtful altogether to warrant you in committing that man and depriving him of his liberty.

Gentlemen, I have done, I have done my duty. It remains for you to do yours. I am very sure if I were defending a white man what the verdict would be. I hope I am addressing men who will give the same justice to an Indian. I have said, over and over again, since I have been in Regina, that I never in my life in eleven years' experience in practice—I never saw finer, more intelligent, more superior jurymen than I have seen in this box, and it was not until the verdict in the Big Bear case that I yielded to what I had been told—that the prejudice against the Indians was so strong that there was no hope of getting any of them acquitted. Gentlemen, I hope and believe that the men I see before me now are men that will give them the same fair consideration that they would give to their fellow-men, white men, and that is all I ask. I don't ask for any special grace to them because they are Indians at all—I ask merely that you will just say to yourselves “now, if this were a white man would we convict, would we feel safe in putting a white man, depriving him of his liberty, upon the evidence that appears here?” In the face of the good character he bears, in the face of the probabilities of the case, of his position which made all his interests to be the same with the Government, if he possibly could have had the evidence that has been given of the way in which he was brought in there against his will, of the difficult position in which he was placed, and the undoubted fact that there is this peculiarity about his case arising out of the fact that he is an Indian, that he could not look at the matter as a white man would, and that, like the children, as in a great measure these Indians are, he looked at the immediate consequences of what he was going to do, and he felt that the best he could do was to yield, at all events, to some extent, and go into their camp when they sent for him.

ADDRESS OF CROWN COUNSEL.

Mr. Scott.—May it please your Honors, gentlemen of the jury: My learned friend, in commencing his address to you a short time ago, insinuated in pretty strong terms that there had been a miscarriage of justice in a case that was tried here a few days ago against another Indian called Big Bear. Now, I think that insinuation was uncalled for, entirely uncalled for, and I can easily understand the purpose for which it was made. It is not my duty to follow it further except to tell you this, that in disposing of this case you are not to consider what my learned friend thinks is right and just in the matter—you are to consider what you yourselves think is right and just, that is, you are to give a true verdict according to the evidence that you have heard in this case.

Now, gentlemen, I explained to you in the beginning what the offence was that was charged against this prisoner, and have laid before you the evidence with which the Crown suggests that it is proved. That evidence shows conclusively, I submit to you, that he was in the rebel camp with the rebels at Batoche, that is proven beyond a doubt. The fact of his being in the rifle pits in the lines of fire at Batoche is proved by the evidence of one witness whom my learned friend has tried to some extent to discredit, but I submit he has not succeeded in doing so.

Now, gentlemen, those being the facts that are proved, I submit that it would be sufficient to convict the prisoner of the offence with which he is charged, unless it has been shown to you conclusively that the reason of his being there was not such as would entitle him to be punished for the offence. Has it been proved that the excuse for being there was justifiable? We have the evidence of Mr. Willoughby upon that point. In the first place, I may say to you it is shown that the prisoner knew just exactly what was going on at Batoche, that at the time that Willoughby went down to Norbert Welch's, some days before the prisoner left his reserve to go northward, they had a discussion about the matter. It was known exactly in that part of the country what was the position of affairs at Batoche, and how things were going on there. The prisoner knew it as well, because Willoughby was talking about it to him at the time. He knew just exactly the position of affairs there, and

we find afterwards that, in company with a number of half-breeds who were supposed to be rebels, he left his reserve and started northward.

Now, gentlemen, we have the evidence of Willoughby that he sent in a message to the citizens of Saskatoon stating that he was being carried off against his will, and that he wanted the citizens there to assist him in escaping. Was the prisoner's conduct, in passing through Saskatoon, beyond his bare statement to Willoughby that he was afraid, and that he was going against his will—was his conduct in passing through Saskatoon such as would lead you to believe that he was really anxious and desirous of escaping from the half-breeds? You must remember that, according to the evidence given here to-day, the members of his band outnumbered the half-breeds that were with them. At the outside, Willoughby said not more than eighteen half-breeds, and there may have been twenty Indians. I think Willoughby is not positive on that point. I think he said there were about twenty. When they were coming through Saskatoon, the citizens of Saskatoon, to the number of nine or ten, were there, ready to aid and assist him in escaping if he wanted to. Did he show any desire to escape on that occasion? It appears the citizens met him there and were prepared to assist him, and he saw himself that they were prepared to assist him, but he did not make any effort to escape there, and when, although Willoughby says there was an effort made by the half-breeds to keep the whites away from the prisoner, it appears Willoughby had no difficulty in seeing him a short time after they had left Saskatoon, away on the outskirts of the town. Then Willoughby explained to him the exact position of affairs, what was going to be done, and what they were willing to do. All that the prisoner said on that occasion was that he was afraid. Now, gentlemen, it is my duty to call your attention to the fact that that is the only evidence that we have had from beginning to end in justification of the prisoner's presence in the camp—his mere statement that he was afraid of Riel and was going up there against his will; that is the only evidence as far as I can see.

Then, gentlemen, we have the evidence as to character; that evidence is pretty strong, that up to the time of this breakout, that he was a good Indian, since he came to this country. My learned friend says he has done nothing wrong before he came to the country. He admits he may have been fighting, but he was fighting in a justifiable cause as he says. It may be reasonably inferred that the cause was not legally justifiable, otherwise he would not be here, because my learned friend says he came here to escape from the tyranny of the American authorities. Then, that being the case, he owed so much more to the Government here, and was under so much more of an obligation to them.

Now, gentlemen, the only other point is as to the evidence of Mr. Astley. Did Mr. Astley see the prisoner in the rifle pits? He tells you that he knows the prisoner for three years. Ask yourselves whether if you had known a man for three years you would be liable to be mistaken, even under the circumstances of excitement which Mr. Astley may have been in that day. Mr. Astley gave his evidence very fairly. You remember what he said about the prisoner's character. He said that he had always borne a good character, and as far as he had heard, he was a good Indian, but he says also, he cannot be mistaken as to his being there. My learned friend insinuates you should not believe Mr. Astley's statement, because he did not remember what he wore. Now, with all due respect to my learned friend, I think that is unreasonable, and, judging by myself, when I look at a man on the street and recognize him, and don't remember what he wears, I don't look at his clothes. I look at his features, and if I met him on the street, I would remember him whether he had a hat on or not, because if he hadn't a hat on on the street, we would think it singular, but, in times of excitement of that kind, when everything is unusual, the fact of his having a hat on of any kind or not having a hat on at all, or covering to his head, would not be singular, and it seems to me it would not strike a person's memory at the time.

Gentlemen, I don't know that I have anything more to say to you. I put the case as fairly before you as possible. We don't want you to convict this man unless

he is guilty, unless he is guilty beyond a possible doubt, but I ask you to look at the evidence fairly and consider it, and consider what you would have done under the circumstances, the same circumstances.

My learned friend says that you are not to judge of this man's actions by those of a white man, that his being there is not to be considered as strong evidence, as strong in the case of an Indian as in the case of a white man; but you must remember that Willoughby stated conclusively that the prisoner knew that these men were in rebellion at the time.

Mr. Robertson.—He says the contrary.

Mr. Scott.—I asked Mr. Willoughby in cross-examination, if at the time he was down at Norbert Welch's and was speaking with White Cap—whether the state of affairs was known to White Cap, the state of affairs in the north, and he said he was. You must remember that Willoughby said on another occasion when he was trying to persuade him not to go up there,—he says himself he told him the consequences of going up there, what would be done to him, and the prisoner answered to that that the Government were harboring him here, and giving him a reservation, and that he did not intend to do anything against them.

—JUDGE'S CHARGE.

Court.—Gentlemen of the jury: The charge against this prisoner is one of a similar nature to the charges that have been tried in this court room against other prisoners within the last few weeks, and, reducing it to the briefest possible compass, it is, compassing and being with men who are in a state of rebellion. The positions you and I occupy are different. It is my duty to tell you what the law of the land is, and it is your duty, bearing in mind what I tell you as the law, to distribute the evidence and to consider that evidence and say upon that evidence whether a violation of that law has taken place in the case in point. What may have transpired, or what may have occurred, what wrong I may have done in the opinion of any young gentlemen has nothing whatever to do with this case. I have in each case that was put before me, according to my oath, without fear, favor or affection for anyone, put the law of the land, as I understand it, to you, and having thus put that law to you, satisfying myself that you recollect what has been stated in the witness box here by the different witnesses, it is for you then, without fear, favor or affection to anyone, no matter whether he is black or white, Indian, half-breed or any other color or any nationality at all, it is your duty there to say whether or not the evidence conclusively establishes guilt or the reverse. If it conclusively to your minds establishes guilt, then a conviction should take place. If, on the other hand, it runs short of that, you should acquit.

Now, speaking generally of the law, rebellion is wrong, and not only is rebellion wrong, but the presence of anyone in any character aiding and abetting or encouraging rebellion or the prosecution of the unlawful design must involve a share of the common guilt. Now, I have always understood that to be the law of the land for years. I don't claim to be an old man by any means, nor do I claim to be too old any day to learn, to be instructed in law from my juniors, no matter how young they may be.

Mr. Robertson (interrupting).—Perhaps your Honor would like to know I am 35. I know it is young, but it is old enough with 11 years' practice at the bar to know something, and to do my duty. The crime of being a young man is one I am not ashamed of.

Court (continuing).—What interruptions I may have, while I have to notice them, because it stops my addressing you, it won't at all shake me in anything I have to say to you; but we know now we are apprised of the fact that, perhaps, I did not know before.

Mr. Robertson (interrupting).—Which is very important to the case, of course.

Court (continuing).—Now, you have to determine upon the evidence which you have heard to-day, whether this man should be convicted or not. You have the evidence of Mr. Astley. Do you believe him? If his evidence is unshaken, then

where was this prisoner and what was he doing during this time? In addition to that, you have the evidence of Tomkins, and what does he say about that? Is his evidence shaken? Then you have additional evidence to that—corroborative evidence of that—the evidence of the convict Garnot. What does he say?

Well, convince yourselves first as to the position they leave the case in, and having got that, then how does the evidence of this Mr. Willoughby strike you? The object, I assume, in calling Mr. Willoughby, the object of his evidence would be to convince you that this man was there by compulsion. Now, are you satisfied of that? Are you satisfied, in the first place, that he was there? And if you are satisfied that he was there, are you satisfied that he was there by compulsion? And by sheer compulsion?

If that fails, why then I can only tell you, if you are satisfied that he was in the camp and doing what they say he was, then, unless you are satisfied that he did what he did by compulsion, the verdict should be "guilty." If you are not satisfied that he was there, or if there, that he was there by compulsion, then your duty is to acquit him.

With these remarks, I leave it to you, and you retire now to consider what is right between man and man, doing unto him as you would be done by if similarly situated.

The jury retired at 1 p.m., and returned within fifteen minutes with verdict of "not guilty."

Court, to prisoner, the jury have acquitted you, and you are now a free man again.

QUEEN vs. SCOTT.

CANADA,
North-West Territories. }

The 15th day of August, 1885, at the town of Regina, in the North-West Territories. Before Hugh Richardson, Esquire, one of the stipendiary magistrates of the North-West Territories, exercising criminal jurisdiction under the provisions of the North-West Territories Act, 1880.

Thomas Scott, you stand charged before me as follows:—

CANADA,
North-West Territories. }

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario, in the Dominion of Canada, chief of police, taken the day of August in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:—

1st. That Thomas Scott, not regarding the duty of his allegiance but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our said Lady the Queen should and of right ought to bear towards our said Lady the Queen, on the twentieth day of March, in the year aforesaid, and on divers other days as well before as after that day, together with divers other evil disposed persons to the said Alexander David Stewart unknown, at and near the locality called Batoche, in the North-West Territories of Canada, aforesaid, feloniously and wickedly did compass, imagine, invent, devise and intend to levy war against Her said Majesty the Queen within Canada, in order by force and constraint to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention then feloniously and wickedly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say:—

In order to fulfil, perfect and bring to effect felonious compassing, imagination, device and intention aforesaid, he, the said Thomas Scott, afterwards, to wit, on the

said twentieth day of March, in the year aforesaid, and on divers other days and times as well before as after that date, feloniously and wickedly did conspire, consult, confederate, assemble and meet together with divers other evil disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm; and further, to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention, he, the said Thomas Scott, afterwards, to wit, on the twenty-second day of March in the year aforesaid, feloniously and wickedly did conspire, consult, confederate and assemble and meet together with divers other evil disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further, to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention, he, the said Thomas Scott, afterwards, to wit, on the twenty-third day of March, in the year aforesaid; at the locality called the Ridge, in the said North-West Territories of Canada, aforesaid, feloniously and wickedly did express, utter and declare his said felonious compassing, imagination, invention, device and intention by there feloniously publishing a certain letter or writing addressed to certain evil disposed persons to the said Alexander David Stewart unknown, who were then in open rebellion and insurrection against our said Lady the Queen, in the North-West Territories of Canada, aforesaid, in the words following, to wit:—

“RIDEAU, 23rd March, 1885.

“To the French Council:

“At a meeting held at the Lindsay school to-night, which was largely attended the voice of every man was with you, and we have taken steps which, I think, will have a tendency to stop bloodshed and hasten a treaty. We will communicate with you inside of forty-eight hours after you get this. Notify us of any steps, if any is liable to take place.

“Yours respectfully,
“THOMAS SCOTT.”

He, the said Thomas Scott, then well-knowing that the said evil disposed persons were then in open rebellion and insurrection against our said Lady the Queen.

And further, to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention, he, the said Thomas Scott, on the 23rd day of March, in the year above mentioned, and on divers other days as well before as after the said last mentioned day, at or near the locality called the Ridge, in the North-West Territories of Canada, aforesaid, wickedly and feloniously did aid, help, abet, comfort, assist and maintain the said evil disposed persons to the said Alexander David Stewart unknown, then being in open rebellion and insurrection against our said Lady the Queen within this realm, he, the said Thomas Scott, then well knowing that the said evil disposed persons were then in open rebellion and insurrection against our said Lady the Queen, in contempt of our said Lady the Queen and her laws to the evil example of all others in like case offending against the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

And the said Alexander David Stewart further saith: That the said Thomas Scott not regarding the duty of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject should and of right ought to bear towards our said Lady the Queen, on the 20th day of March, in the year last above mentioned and on divers other days as well before as after that day, together with divers evil disposed persons to the said Alexander David Stewart unknown, at and near the locality called Batoche, in the North West Territories of Canada, aforesaid, feloniously and wickedly did compass, imagine, invent, devise and intend to levy war against her said Majesty the Queen within Canada, in order to put force and constraint upon both Houses of Parliament of Canada; and the said felonious compassing, imagination, invention, device and intention then

feloniously, and wickedly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say :

In order to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Thomas Scott, afterwards, to wit, on the said 20th day of March, in the year aforesaid, and on divers other days and times as well before as after that day, feloniously and wickedly did conspire, consult, confederate, assemble and meet together with divers other evil disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm ; and further to fulfil and bring to effect his felonious compassing, imagination, invention, device and intention, he, the said Thomas Scott, afterwards, to wit, on the 22nd day of March, in the year aforesaid, and on divers other days as well before as after that day, at the locality called the Ridge, in the North-West Territories of Canada aforesaid, feloniously and wickedly did conspire, consult, confederate, assemble and meet together with divers other evil disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention, he, the said Thomas Scott, afterwards, to wit, on the twenty-third day of March, in the year aforesaid, and at the locality called the Ridge, in the said North-West Territories of Canada, aforesaid, feloniously and wickedly did express, utter and declare his said felonious compassing, imagination, invention and intention by there feloniously publishing a certain letter or writing, addressed to certain evil disposed persons to the said Alexander Stewart unknown, who were then in open rebellion and insurrection against our said Lady the Queen in the North-West Territories of Canada, aforesaid, in the words following, to wit :

“ Ridge, 23rd March, 1885.

“ To the French Council.

“ At a meeting held at the Lindsay school to-night, which was largely attended, the voice of every man was with you, and we have taken steps which I think will have a tendency to stop bloodshed and hasten a treaty. We will communicate with you inside of forty-eight hours after you get this. Notify us of any steps, if any is liable to take place.

“ Yours respectfully,

“ THOMAS SCOTT.”

He, the said Thomas Scott, then well knowing that the said evil disposed persons were then in open rebellion and insurrection against our said Lady the Queen.

And, further, to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention, he, the said Thomas Scott, on the twenty-third day of March, in the year above mentioned, and on divers other days as well before as after the said last mentioned day, at or near the locality called the Ridge, in the North-West Territories of Canada, aforesaid, wickedly and feloniously did aid, help, abet, comfort, assist and maintain the said evil disposed persons to the said Alexander David Stewart unknown, then being in open rebellion and insurrection against our said Lady the Queen within this realm, he, the said Thomas Scott, then well knowing that the said evil disposed persons were then in open rebellion and insurrection against our said Lady the Queen, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the statute in such case made and provided and against the peace of our said Lady the Queen, her Crown and dignity.

Sworn before me the day and year first above
mentioned at the town of Regina, in the
North-West Territories of Canada.

A. D. STEWART.

HUGH RICHARDSON,
Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice that you have the option of being tried by a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way and without a jury, pursuant to the Statute of Canada, 43 Victoria, chapter twenty-five, section seventy-six, subsection five, as amended by the Statute of Canada, 48-49 Victoria, chapter fifty-one. Which do you elect?

TUESDAY, 10 a.m., 8th September, 1885.

Before Mr. Justice Richardson and a justice of the peace.

THE QUEEN vs. THOMAS SCOTT.

Court.—Return the precept, Mr. Sheriff. (Precept returned.)

Messrs. B. B. Osler, Q. C., and D. L. Scott, counsel for Crown.

Messrs. H. J. Clarke, Q. C., and J. V. MacLise, counsel for prisoner.

Clerk of the court opens court, and charges the prisoner, reading the charge as contained in the above indictment, and asks the prisoner whether he is guilty or not guilty?

Mr. Clarke.—Before pleading to this indictment, your Honors, I object to the jurisdiction of the court, and demur in the usual form. We have labored under more or less difficulty, in connection with my learned friend, Mr. MacLise, who is with me in this case. We have not been served with a copy of the charge against the prisoner, and it is a lengthy document. The names of the witnesses, as matter of course, we have not got. There was no preliminary examination. We know nothing about the charge against the prisoner in fact, or what the means are by which that charge is to be sustained. The demurrer is as follows:

THE QUEEN vs. THOMAS SCOTT.

The North-West Territories Act, 1880.

CANADA,
North-West Territories. }

And the said Thomas Scott, in his own proper person, cometh into court here and after having heard the said information read, saith:

That Hugh Richardson, Esquire, one of Her Majesty's stipendiary magistrates of the North-West Territories of Canada, exercising criminal jurisdiction in open court with a justice of the peace and a jury of six, under the provisions of the North-West Territories Act, 1880, ought not to take cognizance of the offences in the said information charged and specified, because protesting that he is not guilty of the same, nevertheless the said Thomas Scott saith that the offences with which he is charged are punishable with imprisonment for life and he should be committed for safe custody and sent for trial to Upper Canada, or to the Province of Manitoba, or to any court constituted in British Columbia taking cognizance of like offences committed therein, and because in virtue of the laws in force in the place where the said offences are charged to have been committed, the said Hugh Richardson, in open court with a justice of the peace and a jury of six has no jurisdiction to try the said offences charged in the said information.

THOMAS SCOTT.

By W. V. MACLISE, his attorney.

Mr. Osler.—On behalf of the Crown I reply to that, that the plea and matter therein contained are not sufficient in law to preclude the court here from their jurisdiction to hear and determine the offences charged, mentioned and specified in the above charge, and put the following demurrer to the plea of prisoner as above:

8th September, 1885.

THE QUEEN vs. THOMAS SCOTT.

And Britton Bath Osler, one of Her Majesty's counsel learned in the law, who, for our said present Sovereign Lady the Queen in this behalf as to the said plea of

him, the said Thomas Scott, by him above pleaded as aforesaid for our said present Sovereign Lady the Queen, saith :

That the said plea and the matter therein contained are not sufficient in law to preclude the court here from their jurisdiction to hear and determine the offences charged, mentioned and specified in the said charge, and above charged upon him the said Thomas Scott in and by the said charge.

Wherefore, for want of a proper and sufficient answer in this behalf, he prayeth judgment, and that the said Thomas Scott may answer in court here to our said present Sovereign Lady the Queen, touching and concerning the premises aforesaid.

B. B. OSLER, of counsel for the Crown.

Court.—Well, Mr. Clarke, there is a demurrer now to your plea of jurisdiction.

Mr. Osler.—Which my learned friend joins in I presume?

Mr. Clarke.—Yes.

Mr. Osler.—Then you had better file a joinder.

Joinder now filed in the words following:—

THE QUEEN vs. THOMAS SCOTT.

CANADA,
North-West Territories. }

The North-West Territories Act, 1880.

And the said Thomas Scott saith that his said plea by him above pleaded, and the matter therein contained in manner and form as the same are above pleaded and set forth are sufficient in law to bar and preclude our said Lady the Queen from prosecuting the said information against him, the said Thomas Scott; and the said Thomas Scott is ready to verify and prove the same as the said court shall direct and award; Wherefore inasmuch as the said Alexander David Stewart for our said Lady the Queen hath not answered the said plea, nor hitherto in any manner denied the same, the said Thomas Scott prays judgment, and that by the court here he may be dismissed and discharged from the said premises in the said information specified.

Dated this eighth day of September, A. D. 1885.

THOMAS SCOTT,

By W. V. MACLISE, his attorney.

Court.—Mr. Clarke, do you wish to adduce any argument different from what I have already heard?

Mr. Clarke.—I am perfectly aware, your Honors, that this question of jurisdiction of the court has been argued at very great length in a trial that took place here some time ago on a charge of high treason. I am also very well aware that the question of that objection to the jurisdiction of the court is yet pending before the Court of Appeal in the Province of Manitoba and that probably we will have a decision on the matter by this afternoon or to morrow, and under those circumstances, I think, to say the least of it, it is rather premature to continue these trials when the decision of the Court of Appeal is within 24 hours of being received by this court. To say the very least of it, it looks a little strange. If the object is to do justice under and by virtue of British law, while a British court of justice is deciding whether this court has jurisdiction or not, and that decision being within 24 hours of being received—I think probably it would have looked much better, whether legally or not—it would have been better to have awaited the decision of that Court of Appeal.

Court.—But the case was fixed for yesterday.

Mr. Clarke.—I am aware it was fixed for yesterday, and yesterday we knew nothing about when that Court of Appeal was to decide, and yesterday the court will remember that it was not the defence that requested the delay. However, that is a matter that does not make any difference.

Now, the learned gentleman who made the objection to the jurisdiction of the court, or took the objection before, argued from one particular premises. I don't

intend to touch that, because the argument has been made so complete on behalf of the prisoner then on trial, that I have endeavored as much as possible to strike new ground and to travel over as little of the old marked line which they took as it is possible to do.

In the first place, I submit to your Honors that we have to go behind, very far behind, the time that was mentioned first by those gentlemen who took exception to the jurisdiction. We have to go to the very first history of this country, to strike at the jurisdiction of this court. It may look rather strange that we have to travel so far back; but the jurisdiction begins just exactly when the country comes under the power and the authority of the Government that gives the jurisdiction. The jurisdiction in Canada has been divided for a great many years. It is a jurisdiction that was divided between the French laws and English laws up until the year 1791, and even to the present day the French laws obtain in a very large proportion of this Dominion of Canada. Now had that Province of Quebec which was first erected after the conquest, had it continued up to the present day, the same as it did up to 1791, the time of the constitution, we would have had no difficulty whatever to know what jurisdiction we were acting under, not the slightest. We would have known particularly well that we were acting under a divided jurisdiction, that when we wanted one thing, we had to go to France for it, and when we required the other, we had to go to London for it, and now we are placed in the position in this country that we can go to neither place for it. We have no jurisdiction at all, according to the possession of any laws in the Dominion of Canada. In 1759, the whole of the French provinces or French possessions in La Nouvelle France or Canada were conquered at the battle of the Plains of Abraham. That is a point that will not be denied. From that time until 1763, after the conquest, our country was under a kind of martial law. In 1763, by the Treaty of Paris, their Majesties of France and England came to a treaty by which France surrendered, ceded to the crown of England, the whole of her possessions in North America, and nothing was reserved. Now, the ground taken by the learned gentlemen who argued this question of jurisdiction before was this—this country was obtained by conquest—*ergo*, the law of the conquerors followed their arms; and the common law of England became the common law of the Dominion of Canada and of the whole of these British possessions in North America. That is true to a certain extent, but there was a portion of that country that was not recognized by the conquerors as having been conquered by the decision on the Plains of Abraham in 1759. Had it been so, there would have been no necessity for this treaty, and the proof that there was not, that the whole country was not conquered, was not taken possession of, was this that it was only in 1763 that His Majesty of France and His Majesty of Great Britain together, in Paris, determined what was ceded to the British Crown by that of France. Now, the particular point that I draw your Lordships' attention to is this in this respect, that almost simultaneously with that treaty and the decision of that Treaty of Paris in 1763, almost simultaneously with that Act, His Majesty of England, George the III, issued his royal proclamation whereby he declared that all parties colonists in this new country that had been ceded, not the Province of Quebec, but in the whole country that had been ceded, that all over that country all sojourners, all strangers, all colonists in that country should be protected by the laws of England. That was the proclamation. Now, what did France claim at that time? What country did France claim at that time? Did she claim simply from the Gulf of St. Lawrence, on the coast of Labrador, up the St. Lawrence River and to Quebec and Three Rivers and Montréal and up the Ottawa? Nothing of the sort. She claimed over two-thirds of the whole continent of North America. She claimed the right, and commissioners were appointed in 1750 between the Governments of England and France to settle the question of frontier between the two countries, and at that time France claimed the whole continent from the coast of Labrador to Louisiana. She claimed the right to erect a chain of fortresses across the whole continent; in other words, she claimed the right to erect fortifications which would shut out thirteen colonies then recognized as being the only portion of America that belonged to England up to that time.

She claimed the right to the whole of this vast country, she claimed the right to the whole of the Hudson Bay territory. She claimed the right up as far as human imagination can go towards the north pole and from that down to Louisiana, taking in the whole of the Mississippi River and of the Missouri and Ohio. Now what position did this leave this Canada in at the time of the issuing of this proclamation? It was a declaration by His Majesty of England that until a general assembly of the colonists of the people should be convened, all colonists and strangers and sojourners in this land should be protected by British law. That was the proclamation, that they should be protected by British law. Now, was ever that general assembly called together? Never up to the present time, it was never called together up to the present time, and until we have some proof that that proclamation was revoked in respect to the country that we are now inhabiting and where this offence is said to have taken place, I submit to your Honors that we have a right to except to the jurisdiction of this court, and to be placed in a position that we can defend ourselves if necessary, before a court of appeal. Now in 1763 when the King of Great Britain issued that proclamation erecting the Province of Quebec into a colony, it was very different from the present Province of Quebec, it covered the whole of what was then supposed to be outside of the Hudson Bay Company's possessions in what composed the former colonies of France and a certain form of government was given to that colony—in other words, there was not an assembly but there was a council, and that council was composed of certain persons named by the Crown. There was no such thing as an election. There was no such thing as franchise. They were simply governed by a secret class, a secret conclave who held their councils with closed doors. That state of things obtained until at last it became so obnoxious, particularly to British settlers or colonists, that it became a question whether the country could be retained to Great Britain or not unless some change was made. Up to this time, fourteen years after that proclamation had issued and when still there had been nothing done to fulfil or carry out the promise that had been made, the thirteen colonies became restive on the other side, and then it became apparent to Great Britain that she must do something, or probably it would be fatal to her interests and to her power on the continent of America. Then a certain Act was proposed, and that Act that was proposed was called the Quebec Act, and of all the Acts that blur and blot the statutes of Great Britain, I doubt if there is another that deserves more strong condemnation than what was called the Quebec Act. That Quebec Act was carried through, it was not intended for the purpose of encouraging the people of the country, but on the contrary it was a menace to the people of the country, and it was to tell them in so many words that England did not require or did not expect or did not want her people to emigrate to Canada, but on the contrary they wanted to prevent emigration in every possible means. Now, this state of things may have looked in England all right, but to the people of this continent at that time it looked to be altogether wrong, they petitioned against it, their petitions were treated with sovereign contempt and indifference. They held public meetings, passed resolutions and forwarded these resolutions to the home Government. In a great many instances, they did not even condescend to send an answer.

Court.—What was the year that the Québec Act was passed?

Mr. Clarke.—The Quebec Act was passed in 1774. By that Quebec Act a council was appointed of not more than twenty-three, or less than seventeen members. That was the only means that was taken to carry out the promise that had been made in the proclamation, of a general assembly. Now, it is wonderful when we look at the position of things here to-day and the position of things at the time that I refer to, to find how exactly, and as nearly as they possibly can, history repeats itself between 1774 and 1885. The position the people of Quebec were in about that time is almost about the position the people in the North-West Territories find themselves in to-day. The Quebec Act was not satisfied with leaving it an open question, but they absolutely made it a point that the *Habeas Corpus* Act should not have power or force in the colony of Quebec. The same thing obtains here to-day. Men may be imprisoned, they may be arrested without warrant, they may be slung into prison.

and kept there for weeks and months. There is no writ of *habeas corpus*. They cannot find means of compelling the magistrates of the land to admit them to bail, although they may be arrested on the most trivial offences. The same thing obtained at that time in the Province of Quebec. The same thing obtained under the rule of Governor Carleton in Quebec. Prisons were crowded with prisoners. The dungeons were full of victims, whose shrieks could not be heard, and whose lamentations were not answered by any officer of justice in the country for they were appointed and deposed at the will and pleasure of the council. The same thing obtained there as obtains here now. Prisoners are stuck into gaols by the dozen and almost by the fifties and not told why they were arrested. No charge is preferred against them, no preliminary examination before a magistrate, and any man, the most respectable man in the country, is liable to be tapped on the shoulder by a bailiff or a constable and to be slung into gaol without being told why he is put there or without any charge being preferred against him, and he may lie there for weeks and for months and still he has no redress, and we are to be told at this day that that is British justice, and that that is what Her Majesty of Great Britain intended when she gave a constitution to the Dominion of Canada in 1867.

I don't know, your lordships, if the intention of the people of England or of the people of Canada be the same, what the object was of the Attorney-General of England at the time when this Act was passed. At that time, when this question was introduced in the British House of Commons, the then Solicitor-General Widderbun, in reference to that Bill, said, "Now, I confess that the situation of the British settler is not the principal object of my attention. I do not wish to see Canada draw from this country any considerable number of her inhabitants. I think there ought to be no temptation held out to the subjects of England to quit their native soil and to increase the colonies at the expense of this country. With regard to the English who have settled there, their number is very few. They are attached to the country either in point of commercial interests or they are attached to it from situations they hold under the Government. It is no object of this measure that those persons should settle in Canada."

Now, if it was the intention of the Government of Canada at the time they established this North-West Council, the bastard off-shoot of the former Legislative Council of the Province of Quebec, their object could not be better attained, that is, particularly if they wanted to follow up the design by carrying out here in the North-West Territory exactly the same line of procedure which was followed by the British Government and by their officials in the Province of Quebec previous to the granting of the constitutional Act in 1791, they could not have proceeded better. They are succeeding admirably from day to day. They are doing everything in their power to prove that in the North-West Territory of Canada they have simply to consider themselves back 100 years, and that they are living under the same law that obtained under the old council in Quebec from 1794 up to the time of the granting of the constitution.

Now, why is it necessary to revert to these things? It is necessary, my lords, perhaps not for the people living in this country, because they know exactly what position they occupy, but it is necessary probably to revert to them more or less, so that the people that are outside of this North-West Territory may know just in what position their fellow subjects in the North-West Territory are living, and by what species of law they are supposed to be governed or to be kept in order, or their rights to be protected. It is probably necessary that the people of Canada should begin to wake up to the fact that there is something more required than a mere trial before this court in this North-West Territory, to secure the people the rights that they should have had secured to them by virtue of that proclamation which was issued so long ago, and which secured the promise of protection to the people of Great Britain and all other colonists in this country under British law.

Now, what has that to do with the question of the jurisdiction of this court? I have no doubt that that question is forcing itself very forcibly upon the minds of your lordships, and probably of those who are listening to me. I will tell you just

what it has to do with it. It has this to do with it. The constitution which was granted the Province of Quebec or which divided the Province of Quebec into two, and which made Upper and Lower Canada—that constitution extended the limits of the Province of Quebec a very great way west. It extended the limits of the Province of Quebec west over what is now one of the most populous and flourishing portions of the United States of America. It extended the limits of Quebec over a quarter of a continent to the Ohio and to the Mississippi. It included Old Canada, all over the present States of Ohio, Michigan, Indiana, Illinois and Wisconsin, and as the great historian Bancroft, in speaking of this, says, left the people who were to colonize the most fruitful territory in the world without the writ of *habeas corpus* to protect their rights, the rights of prisoners, and without having a share in any branch of the Legislature. Now, if history can repeat itself more correctly or more accurately than it is doing at the present time, I should like to know in what respect. From that portion of the Dominion of Canada, what is now called the Dominion of Canada, from that portion of the former Province of Quebec and the Province of Ontario that still retain to the Dominion of Canada or remained to it, it was determined that the boundary line should be, between those two countries, the boundary line of the Hudson Bay territory. Now, that is a boundary line that I submit to your Lordships has never yet been discovered—it is a boundary line that is yet to be found and discovered in future—it is a boundary line that has been claimed by the Hudson Bay Company to extend to the head of Lake Superior, and to take in even down to Prince Arthur's Landing to the height of land. The Hudson Bay Company have claimed that. The Hudson Bay Company had to admit on a great many occasions that they were trying to secure that as a boundary, but they never succeeded in securing it. On the contrary, all the best authorities that we have, both the treaties between France and England, and treaties between England and France and other countries, from them we have the most undoubted facts that the Hudson Bay territory never extended to what is known as the fertile belt, to that portion of Canada that is now known as the North West Territories—that in other words, Rupert's Land, that portion of the shores surrounding Hudson Bay and Davis' Straits that were presented in a charter by Charles the II to his cousin Prince Rupert, and that charter afterwards transferred by Charles the II to a Company of Adventurers of England trading into the Hudson Bay or Hudson Bay Company. It never extended into what is called the fertile belt, or in other words, that it was contemplated and intended only to cover that portion of the continent that was unfit for human habitation and only fit as the home and the abode of wild animals, whose furs were being sought by this Hudson Bay Company.

Your lordships will remember that a great deal of discussion took place on this question of the territorial rights and jurisdiction of the Hudson Bay Company previous to what is called the Confederation of the Dominion of Canada. Now, among those discussions that were held, none is more full or complete in this respect than the report of the delegates appointed to negotiate for the acquisition of Rupert's Land and the North West Territory, laid before the Parliament by command of His Excellency the Governor General and; therefore, a public paper of which courts of justice can take cognizance. It was published at Ottawa in 1869. The delegates on that occasion were the late Sir Geo. Cartier, than whom perhaps there was not a greater constitutional lawyer in the Dominion of Canada in his day, thoroughly conversant with the French constitutional history of the country and also with the constitutional history of the country under the British Dominion; with him was associated the Hon. William Macdougall, who went there along with him as a delegate by virtue of an Order in Council passed the day before they started, that is to say on the 14th October, 1868. The Order in Council appointing the delegates was made in 1868 but the report was made in 1869.

Now, my lords, what do we find. When these delegates went to England they discovered that the Hudson Bay Company had been insidiously attempting by getting an Act passed by the Imperial Parliament, had been insidiously trying to establish a right to this great country which they never possessed. It is on the statute

book, and it forms a portion of this report. This Act was passed on the 31st day of July, 1868. It is called an Act for enabling Her Majesty to accept a surrender on terms of the lands, privileges and rights of the trading Company of Adventurers of England trading into the Hudson Bay, and for admitting the same into the Dominion of Canada. It may be styled as the Rupert's Land Act, 1868. Now, the discussion between Sir Geo. Cartier and Mr. Macdougall and the members of the British Government, and the representatives of the Hudson Bay Company were most exhaustive. They continued for a very great length of time, when unfortunately Mr. Macdougall was taken down with small pox, and consequently the whole brunt of the battle rested on the shoulders of his colleague, Sir Geo. Cartier. Now, what was their position there? They say, and this is their report to the Parliament of Canada. "The charter of Charles II (and at present we raise no objection to its validity) could not and did not grant to the Hudson Bay Company any territory in America which was not then (1670) subject to the law of England. That is their first proposition. 2nd. The charter expressly excluded all the lands then possessed by the subjects of any other Christian Prince or State. 3rd. By the treaty of 1632 the King of England resigned to the King of France the sovereignty of Acadia, New France and Canada generally, and without limits. 4th. Nouvelle France was then understood to include the whole region on Hudson Bay as the records and history of the time, English and French, abundantly prove. At the Treaty of Ryswick in 1697, twenty-seven years after the date of the charter, the rights of the French to places situate in Hudson Bay were distinctly admitted, and although commissioners were appointed, but never came to an agreement to examine and determine the pretensions which either of the said kings had to places situate in the Hudson Bay, to which I have referred already, and with authority for extending the limits of France and lands to be restored on either side, and the places taken by the English that is, from the Hudson Bay Company by the French, previous to the war and re-taken by the English during the years of war, shall be left to the French by virtue of the foregoing 7th article, in other words, the forts and factories of the Hudson Bay Company, established in Hudson Bay, under the pretence of their charter and taken possession of by the French in time of peace, on the ground that they were an invasion of French territory were restored by the Treaty of Ryswick to the French, and not to the company."

So that that portion, even Hudson Bay, where this fort was established and built at Fort Churchill was declared by Great Britain to belong to France and was restored to France by this treaty and not restored to the Hudson Bay Company by either parties.

By the Treaty of Utrecht in 1714 the bay and straits of the Hudson, together with all lands, seas, rivers situate in the bay and straits subject thereto, were finally ceded to Great Britain.

Now, as no definite boundary was ever established between the possessions of the French in the interior and the English at Hudson Bay down to the Treaty of Paris in 1763, when the whole of Canada was ceded to Great Britain the extent of the actual possessions of the two nations is not known, and from the Treaty of Utrecht to the Treaty of Paris affords the only true basis of ascertaining the boundary.

Now, my lords, under these statements, under these proofs that are given, not here and not in England, but before the House of Commons of the Dominion of Canada, I claim that up to the present time it has not been determined what were the boundaries of the Dominion of Canada, and what the boundaries of the Hudson Bay Company up to the present time; in other words, that proclamation of His Majesty George III, issued in 1763, is in full force in this North-West Territory, in this portion of Her Majesty's dominions as much to-day as it was the day on which the proclamation was issued, and under those circumstances, that the Dominion of Canada had no right to make any such extraordinary provisions as are contained and made for the trial and condemnation of people charged with offences in this North-West Territory; but, I may be asked what has this Province of Manitoba to do with your demurrer? What has it to do with your objection to the jurisdiction of this court,

and why appeal to it? Well, my lords, there is something peculiar about that. I noticed in the argument on the jurisdiction before that a reference was made to Manitoba having a court established by the Dominion of Canada which is known as the Court of Queen's Bench. Now I beg leave to state that that Court of Queen's Bench in Manitoba is simply the general quarterly court that was established under the Hudson Bay charter continued under another form and under another name, and that by virtue of the laws which obtain in what was called the North-West Territory or Rupert's Land, if you will, up to that time that right of *habeas corpus* existed, and the whole body of the English criminal law was in force, full force and effect in that portion of this territory up to the time of its being transferred to the Dominion of Canada, and by virtue of the old laws, the laws of the Governor in Council of Assiniboia of 11th April, 1862, we find what the laws are that were in force in the country at that time.

Court.—The title of that court was the Quarterly Court of Assiniboia, wasn't it?

Mr. Clarke.—The General Quarterly Court of Assiniboia.

Now, we find in the Administration of Justice Act, passed by the Governor in Council of Assiniboia an amendment to their Administration of Justice Act on the 7th Jan., 1864, to remove all doubts as to the true construction of the 53rd clause or article of the code of the 11th April, 1862. The proceedings of the general court shall be regulated by the laws of England, not only of the date of her present Majesty's accession, so far as that may be applicable to the condition of the colony, but also by all such laws of England of subsequent date as may be applicable to the same—in other words, the proceedings of the general court shall be regulated by the existing laws of England for the time being in force, and as the same are known to the court or are applicable to the colony. Now that was the state of the laws and the laws that governed the general quarterly court as it was found by the Dominion of Canada, but they changed the name of that quarterly court, General Quarterly Court, by their Act of Parliament, and continued it to the present day under the name of the Court of Queen's Bench.

Now, it will be remembered by your lordships that in the North-West Territories Act, or rather the Act establishing the North-West Territories Mounted Police, certain powers are given and certain magistrates were appointed in the North-West Territory, but care was taken by the Legislature of the Dominion to make a proviso that any person charged in the North-West Territories with the commission of any crime the penalty on conviction for which would be in the penitentiary, such person had a right to be tried before a judge of the Court of Queen's Bench of the Province of Manitoba.

Court.—That was in 1873?

Mr. Clarke.—In 1873. Now, my Lords, why was that done? I apprehend it was done because the legislatures of that day remembering right well that the boundary had never been determined of what was the old Province of Quebec, and what was in reality that portion of the continent that belonged by right to the Hudson Bay Company, that they had not yet taken it upon themselves to declare that the law of England which was put in force by His Majesty's proclamation in 1763 could be set aside, without replacing it at least, by as complete a code as that which was given to the people then, and for that reason they made this provision, that any person who was to be tried or convicted for an offence of a grave nature, should have the right to go before a judge of the Court of Queen's Bench in the Province of Manitoba, and be tried before the judge of a superior court, of a court of record before a jury of twelve, where a preliminary examination would be had, and where the witnesses against him would be known, their names on the back of the indictment, and where he would have all those facilities and all those protections that are given to and thrown around every British subject when he stands before the courts of his country charged with any offence; but at a later day it appears that the Dominion of Canada began to think that this North-West Territory was simply a kind of preserve which was to furnish all kinds of returns and supplies to them through customs duties and everything of that sort and which was to furnish the means to construct one of the most

extensive railway systems in the world and which was to be used for these purposes' no matter what became of the people who inhabited it. They would simply give them that kind of a court which might be established by any little municipality almost throughout the Dominion of Canada, by any city or town that holds a charter and can establish a police court. That was the Land Act of 1880, by virtue of which this court is now sitting.

Court.—You pass from 1873 till 1880.

Mr. Clarke.—I don't think in my argument it is necessary to refer particularly to the amendments to the Act; but I was about to say that it must be perfectly understood, and nobody understands that better than your lordships, that in making the remarks I am, the remarks are not intended to apply to your lordships or to this court in particular. On the contrary, I have simply this to say, that the people of the North-West Territory as far as I know of the learned judge who presides in this court, so far as the law gives him the power, will have their rights protected by him in a legal and constitutional manner, as an honest and conscientious judge would. That being understood, any remarks that I will make must not be taken at all to apply to your lordships or to this court. It is the system that I object to, and not to the presiding judge. Now, under the present circumstances what position do we find ourselves in? We find that the Dominion of Canada which succeeded in wresting this country from the grasp, to a great extent, of the Hudson Bay Company by showing to Great Britain and showing to the company that they actually had no jurisdiction in the country, that that same government now will take advantage of the arguments that were used against them on a former occasion and try and make it appear that they have jurisdiction because they obtained that jurisdiction from a company which company never possessed any such jurisdiction themselves. That is the argument, that is just the argument that we meet at every step that we take, in every appeal against the jurisdiction of the North-West Territories, and then I submit to your lordships that if the proclamation of His Majesty of 1763, if that proclamation has not been revoked in reference to that portion of the continent of America that belonged to France, and was ceded to Great Britain at that time by the Treaty of Paris, that at the present time this court is illegally constituted, and that instead of the prisoner at the bar being tried by any law that is supposed to be made by the Dominion of Canada, that prisoner has a right to be tried under the laws of Great Britain, and in the manner set forth by the British Statutes which were referred to by learned gentlemen who contested the jurisdiction of the court before, that is, those three Imperial Statutes that were made for the purpose of furnishing some means by which, at least to a certain extent, the pledged promise of the British Crown could be carried out in some manner. When that promise was made in 1763, from that fact and from that moment, the people of this country had a right to expect to be protected by the laws of Great Britain; up to the time, 1803, nothing of that sort had been done. It became necessary to provide some means by which offences of a very serious or capital nature should be tried, and before what court. Acting under the conviction that this portion of the continent of America had been protected up to that time or supposed to be protected by that proclamation of His Majesty, the British Parliament passed an Act by which they declared that certain magistrates in the North-West Territory, that is, in Rupert's Land and the North-West Territory, that they should have certain powers, that certain commissioners should be appointed, and by another Act passed, if I remember aright, in 1821, and another in 1839 or thereabouts, these three Acts together give power to send, or rather it is incumbent to send parties who were to be tried for grave offences either to the Province of Ontario, the Province of Quebec or to British Columbia, where they could be tried before courts of record and with the assistance of a jury. They are the same Acts that were referred to before. It was under that provision that the gentlemen who objected to the jurisdiction before, claimed the right to have their prisoner sent to one of those provinces for trial. Now, if there was not a particular object in view, if the Government of Great Britain did not feel that it was incumbent upon them to supply some means, some jurisdiction by which these people could

enjoy the privileges and the protection of the laws of England, these Acts would not have been passed; they were passed for that purpose, when the population of this country was so sparse, and so very small and the community so very isolated that such a long time after, nearly an age after, we have a police court or magistrates' court alone established in the North-West Territory, the only protection to the people of the country. I say that no matter what the decision of the court may be in that respect, no matter what the decision of the Court of Appeal in Manitoba may be in this respect, I have no hesitation in saying that a more glaring injustice was never done in a British country, to a British people before in the whole history of the British nation. I take that stand without fear of contradiction, and the example of India is no more to be compared to the example of Canada than the example of Hindostan is to be compared to Kamskatka; as the simple fact of the matter is this, in India the power there for years, for a whole century and over, belonged to a company, belonged to a chartered body, belonged to one of those institutions that a great lawyer declared had no body to be kicked and no soul to be damned; it belonged to a company which was irresponsible to all intents and purposes, a company that carried on their trespasses under the mask and pretence of law until it culminated in that terrible exhibition that was made on the trial of Warren Hastings before the British Parliament, and which gave to the world such a peculiar tyranny as the world has never seen equalled from that day to this, and as the world had never seen before, and when it culminated afterwards in the terrible scenes that were seen about Lucknow when the British men and women were butchered by those who had been tyrannized over for 200 years by those who claimed the right to tyrannize over them by law—when that is brought forward as an argument, that in India men could be sentenced to death and executed without even the intervention of a jury at all, is that a reason why that in the latter part of the 19th century, here in a land of civilization, in a land where the British flag is as prominent almost as it is when it waves above the dome of St. Paul's, that we are to be told that it should be set aside, that British subjects are to be tried without the intervention of a jury, and that they are to be cast into prison without having our *habeas corpus* to bring them before the judge of a Superior Court to determine whether they deserve to be cast into prison and kept there as malefactors, or whether they should go abroad as free men, under the protection of the British law and the British flag? To say the least of it, it is a mighty poor argument, and one that will not hold water before any civilized court that can be convened in this or any other country.

After drawing your lordships' attention to that particular point which was not raised on the last question of the jurisdiction of the court, I don't intend to detain the court or to further take the time of the court or the jury any longer than I possibly can help. What the decision will be to-morrow I, as a matter of course, cannot know, nor can your lordships till to-morrow shall have come. I submit that under the circumstances, having raised this point of the jurisdiction, and that question of jurisdiction being so near being settled, that if it could be made in any way convenient, it may be well for your lordships in taking a view of this point that has been raised to await the decision of the Court of Appeal before proceeding any further in these trials. If the decision should be adverse, it would leave us in a very awkward position. If the decision maintains the jurisdiction of the court, then, as a matter of course, we know that all that can be done is to take that decision to another and to a higher court which will decide finally for all time what the jurisdiction of the courts of this country are to be. I submit to your lordships that the prisoner at the bar is charged with a very serious offence. At the same time we have not the slightest possible fear that there is any proof whatever to connect the prisoner with any disloyal act in this or any other country. It is our bounden duty at the same time to throw around him every protection that we can in point of law possibly give him in anticipation of any accident that might possibly occur; but as it is a trial before a jury we have no doubt as to what the result will be. We have no doubt either that your lordships will probably give a very cursory consideration to this argument as to your jurisdiction or objection to the jurisdiction, and that you will be prepared to await the

decision in the former question that was raised in that respect before the court at Manitoba. We are prepared to go to trial, but if it would meet your lordships' wishes and approbation, we should certainly, — now that this question of jurisdiction shall have had the opportunity of being decided in the Court of Appeal to-day or to-morrow when the decision will be rendered, that we might know exactly what ground we stand upon and whether it will become necessary to carry this question any further or not — we should like the case to stand.

Court. — Let me understand you clearly, Mr. Clarke, did I understand you to say that this is France?

Mr. Clarke. — No.

Court. — Then when did it cease to be France and become clearly Britain or British?

Mr. Clarke. — In 1763, by virtue of the Treaty of Paris.

Court. — Then your contention is that from that date, at least you don't contend that from that date France had anything to do with this country?

Mr. Clarke. — France has nothing to do with this portion of the country. Immediately after the Treaty of Paris the proclamation of George III was issued, proclaiming that all residents and colonists in this country should be protected by British law, and I hold that that proclamation is in full force in this country to-day, never having been revoked.

Mr. Osler. — I only desire to say a word to your lordships.

Court. — Before you do answer the argument, Mr. Osler, as this question of jurisdiction is already before the Court of Appeal, and we are to have the decision so soon, would it not be —

Mr. Osler. — No, your Honors, I think not. I just have a few words to say as to that. I desire to say, as to the complaint that no charge has been delivered nor any list of witnesses, that we are not prosecuting the prisoner for treason, and he is not entitled to them. If he wanted a copy of the charge he has a statute which entitles him to demand a copy and get a copy. If my learned friends had asked us for a copy they would have had a copy without fee or charge. The prisoner was charged some weeks ago. The charge was read over to him. They knew what that charge was. It is set out in all its counts, and they have had all the opportunity they required to prepare for the trial. As far as the list of witnesses is concerned, it is only this morning that the witnesses came in from Prince Albert, and we were not in a position to give it to them, nor were they entitled to it. If, your Lordships, the Crown had any doubt upon the jurisdiction of this court or felt any hesitation as to what the judgment of the Court of Queen's Bench in Manitoba would be, the request of the defence for an adjournment till that decision was arrived at would be reasonable, but, inasmuch as that question of jurisdiction has already been decided by the Connors case, inasmuch as the memorandum in appeal in that case was submitted to the Privy Council, and their Lordships in the Privy Council said that there was no *prima facie* case made out for appeal, and inasmuch as this court itself has clearly affirmed its decision following the Court of Queen's Bench in the Connors case, I think it would be trifling with the administration of justice at the present time to adjourn the trial and incur a large amount of expense to await the result of an appeal which is looked upon by the parties taking it as a forlorn hope.

Now, the interesting historical lecture which my learned friend has delivered to the court hardly calls for reply in the way of substantial argument, for, while my learned friend has exhibited a great deal of learning and research, and has given us a very interesting lecture upon the early history of the country, he has failed to grapple with or in any way set aside the Imperial and Dominion legislation upon which the basis of this court rests. He has failed to do away with the provision in the Rupert's Land Act which gives power to the Dominion Government to establish courts for the peace, order and good government of these territories — these territories, whether part of the Hudson Bay territory or originally part of the ceded territory originally belonging to France, no matter where the original title rested, the Rupert's Land Act covers all; that gives the Dominion full power to legislate.

My learned friend would seek to address to the court an argument that a proclamation by George III, of 1763, supervenes and does away with the effect of all subsequent legislation. My learned friend forgets, too, the British North America Act, 1871, vesting the government of these territories in the Dominion of Canada, the second British North America Act giving them full power to legislate. There, then, are the two Imperial Acts, Acts of the supreme power of the empire, vesting the government of the territories in the Dominion Parliament of Canada; and then we have the Dominion Act of 1880 under which your Honors are sitting. My learned friend has not attempted to set aside this legislation. If that legislation does not exist, if my learned friend's say-so is to be taken to set aside these Imperial and Dominion Acts, if we are to take my learned friend's statement that this was originally no part of the Hudson Bay territory, but part of New France, then my learned friend lands himself under the provisions of 22 and 23 Victoria. Under 1 and 2 George IV, courts of record, that is to say, magistrates are to be appointed to sit and hold jurisdiction over these territories. When by 22 and 23 Victoria a further provision is made for the trial in British Columbia, the Act goes on to provide that when those magistrates' courts are instituted in the territories, no longer shall criminals be transmitted to Upper Canada or British Columbia, but that Act does not apply to the territories of Hudson Bay; so that if these territories, where this crime was committed, are not the Hudson Bay, then we have 1 and 2 George IV providing for a court similar and identical with the court in which your Honors now preside, and the right to transmit criminals by 22 and 23 Victoria is taken away where those courts are established. Now, of course, that is a mere argument in answer to the statement of my learned friend, but I don't at all admit his premises. I don't at all admit that that Act is applicable, because as matter of history, as matter of fact, the territories in which these crimes were committed were territories recognized as being in the possession of the Hudson Bay by the Imperial Order in Council following the Rupert's Land Act—the Order in Council to be found bound up in the Canadian Statutes 1872.

For this reason, and because your Honors' court is on so simple and so strong a foundation, I decline to follow my learned friend, in fact I cannot follow in answer to an argument what can only be treated as an historical lecture.

I only desire to say this further in answer to my learned friend's declamation as to the great injustice the people of the North-West Territories are suffering under, that the people themselves do not seem to appreciate it, and my learned friend forgets altogether that in a newly-organized country, a country just, as it were, taken possession of by the English speaking race, that he cannot carry with him all the conveniences of county organization or all the methods of civilized methods of administration of justice, which in the older countries and the older provinces the people, as of right, possess. Here, we have to administer justice in some way to meet the wants of the country. What does my learned friend want? Does he want to create a portion of this country into a provincial government? The people have not asked it. The burden of the administration of justice is now met by the Dominion, the whole Dominion—the burden of expending all the money that is required. The moment provincial organization takes place, which necessarily takes place as soon as the population justifies such a change, that moment a burden, a large burden is on the people themselves.

Court.—It is shifted from the whole Dominion.

Mr. Osler.—Shifted from the whole Dominion on to the people. The people then organize their own courts, select their own juries, and adapt their own system commensurate with the wants and the means of the country; but as long as we have an organization, so to speak, going on, as long as there are sparse settlers here and there, the only method of administration of justice is the method which I submit has been adopted, and from that method the only complaint I have ever heard is the one from my learned friend this morning.

Mr. Clarke.—You must never have read the decisions in Parliament then.

Mr. Osler.—The method of administration of justice has been changed from time to time, first going for serious matters for trial in Manitoba. Various changes have

taken place which are changes approved of by a body of people, by their representatives in Parliament, who are used to receiving and giving the benefits of free institutions.

I don't know what my learned friend's object is in making so declamatory a speech in arguing a matter of jurisdiction which should be a mere point in law, but perhaps I should not criticise the taste of my learned friend in that behalf.

I can only say that we desire now to proceed with the trial, and ask your Honors' judgment that there is jurisdiction to hear this case.

Mr. Clarke.—I would again refer your lordships to this fact, that this question of jurisdiction is to be decided by a superior court this day, and that decision is to be proclaimed to-morrow. I think my learned friend is exhibiting this morning an immense desire to push things. He has had two adjournments, and we did not object to them. Our witnesses have been here, the greater number of them, for two or three weeks, and the Crown had more facilities for getting witnesses here than we had, and I don't think it is asking anything extraordinary or anything out of the way to ask your lordships to adjourn this case until to-morrow morning, particularly when it was adjourned yesterday to meet the convenience of the Crown, and after it was fixed before for the very requirement they wanted, they fixed the trial for the 7th of the month, so that they might attend the Court of Appeal at Winnipeg and have the decision of that court.

Court.—I don't think you are correct there.

Mr. Osler.—No, not at all. Let my learned friend not misunderstand me. If my learned friend here gets up and says that as matter of fact he is not ready to proceed with his defence, then let him apply on that ground. If my learned friend is only asking for delay until he gets the judgment of the Court of Queen's Bench at Manitoba, then I am entirely opposed to it.

Mr. Clarke.—I think that my first request should be sufficient, and I submit most respectfully it should be granted with reference to this decision of the court. Does my learned friend want me to go down on my knees and say I am not ready and beg the Crown to wait for a few hours?

Court.—No, you simply have to say to the court whether you are ready or not.

Mr. Clarke.—My application is made to the court. This is the first time I have been present when the jury has been called here. In courts where I am in the habit of addressing, the calling of the jury takes a very long time—all that kind of thing, and it generally takes more than half a day, and I did not anticipate we would have got through so rapidly as we have. Under the circumstances, I am at liberty to say, without at the same time making it a ground for a request or to ask any consideration from the Crown—I ask it from the court—there is one of our witnesses a minister of the Gospel, a material witness who was told that he probably would not be required to-day, simply because we supposed the whole day would be taken up. That gentleman is not here, and we have every reason to know he will be here to-morrow. Now, if it requires some other ground than the first which I asked of your lordships, I would certainly say that is a sufficient ground.

Court.—You first raised the question of jurisdiction, and I am called upon to determine upon that plea; that is the first thing. Now, then, it is suggested that the only reason of your asking for delay is that you are not ready in the interests of your client. I understand you really to say that is so.

Mr. Clarke.—I take it you put that to me as a direct question, and I will state the fact. I am informed by my learned friend, Mr. MacIse, who is in the case with me, and who has in fact been looking up everything in connection with the case, that he was told by one of the learned counsel that he would not be ready till Wednesday.

Mr. Osler.—That is not so, as far as I am concerned.

Mr. MacIse.—I was told on Friday last by Mr. Scott that until the 9th the Crown would not be ready to proceed. One of our witnesses who was here on that day on that account went down and won't be back till to-night.

Mr. Osler.—I don't desire to mix up two applications. Let us dispose of the jurisdiction question and then if my learned friend has any motion to make, they will find it met in a proper spirit.

Court.—As to the jurisdiction question first pressed upon me I do not differ from the ground I have already taken. The country was admittedly, by Mr. Clarke, British soil in 1763, and being British soil, those Acts 21 and 22 Victoria, and 1 and 2 George IV. were passed, but the subsequent legislation I have already held, that is the Act of 1871, the amended British North America Act, rendered obsolete. I have held in point of law both those Acts, and gave full jurisdiction to the Parliament of Canada who have sent me here and given me the powers which I must not say they had no right to give. I am not convinced of that, and until I am convinced, I think my only course is to hold that I have jurisdiction, but it is simply based upon the Act of 1871.

I sustain the demurrer to the prisoner's plea to the jurisdiction and give judgment for the Crown.

Mr. MacIise.—Your Honor will note the proceedings.

Mr. Osler.—The shorthand writer takes down everything. Then I ask that the prisoner plead.

Clerk.—Prisoner, are you guilty or not guilty of the charges preferred against you to-day?

Prisoner pleads "not guilty."

Clerk.—Are you ready for your trial?

Mr. Clarke.—We ask your lordships that this trial be fixed for to-morrow.

Mr. Osler.—I am not here to oppose any reasonable delay, but I would suggest to my learned friend that the Crown case will last for some time, the jury are here, and, of course, their client must remain in custody now, having surrendered, and I would suggest to them that the proper course would be to proceed with the trial as far as we can go. If my learned friends want a delay, for a witness, then I am willing to accede to it when the time comes. I think it would be a pity because there is one witness absent that so many witnesses here from a distance and a jury at a very considerable inconvenience kept here, as we have, of course, to keep the whole panel here, whereas, after six are selected, there are only six men inconvenienced by the delay—it would be a pity I say, and I would suggest to my learned friends that the Crown case had better go on, and that if at three or four, or at any other time, they find that they are short of a witness, then I am prepared to meet them in any reasonable spirit.

Mr. Clarke.—I can hardly see how that is going to aid the jury. I don't see that it is any particular advantage to six gentlemen to be locked up all night, because one witness happens to be absent—I don't think it would be prudent to begin this trial unless we are prepared to go right through with it, and we have asked no delay heretofore.

Court.—I understand you to say Mr. Clarke that you are not ready, that the prisoner is not ready for his trial.

Mr. Clarke.—Not until to-morrow morning.

Mr. Osler.—If my learned friend says that as counsel for prisoner, I cannot press for the Crown.

Court.—I understand him to say so distinctly.

Mr. Osler.—I merely make the suggestion to my learned friend as a matter of convenience, that we should go on as far as we can, instead of keeping a panel of twenty or thirty gentlemen here. It would be a less inconvenience keeping six, but it is the case of a man charged with a serious crime, and I am not going to press it on, counsel saying he is not ready.

Mr. Scott.—I must contradict that statement of Mr. MacIise as to my having told him the Crown would not be ready till Wednesday morning. I deny most emphatically that I ever told him anything of the kind.

Court.—I don't propose to adjudicate between you two gentlemen as to the correctness of the statement; but when counsel for the prisoner says positively that he is not ready to go on to-day, and it is a serious charge, it is not unreasonable that it should be adjourned till to-morrow. I should have been glad to have gone on, I should have been glad to see the counsel act upon the suggestion of the counsel for Crown.

However, the prisoner has rights and those rights must be reasonably respected. If Mr. Clarke, you saw your way clearly and positively that your witness would be here to-morrow morning, wouldn't it even then be better to go on now?

Mr. Clarke.—I sometimes place a little confidence in the word of ministers of the gospel, and I think he will be here.

Court.—If you are confident of his being here, so confident that you can rely upon him, why not go on?

Mr. Clarke.—I am not confident. I cannot be confident. I have stated the exact position.

Court.—But you will be ready under any circumstances, to-morrow morning. I will consider myself obliged to go on to-morrow morning.

Court here adjourned till 9 a.m. to-morrow, and the prisoner is remanded to custody.

Mr. Clarke asks that the prisoner be allowed to stand on his bail.

Mr. Osler.—I told my learned friend before he asked for the adjournment what the consequences would be to his client. I think he is surrendered.

Mr. Clarke.—Does my learned friend state it as the position of the law and practice in the superior courts of Canada that a man on trial who has given bail is not allowed to stand out from day to day until duly discharged?

Mr. Osler.—Yes, I give it as the ordinary and usual practice of the court. The moment a man surrenders to the sheriff, his bail have done their duty and their bail-bond is discharged. If he is called in court here and application to postpone is made before he is surrendered, then of course the bail holds from day to day, because there has been no surrender, but the moment the man comes back, the bail sureties are discharged.

Mr. Clarke.—Then I ask that he be admitted to bail on a new recognizance until to-morrow.

Court.—Let the bail be continued as before.

Mr. Osler.—The court has now adjourned and the application is too late.

Court.—The only difficulty is there is no court now, and it is a special court.

Mr. Clarke.—The court, it is true, is adjourned for trial of the case till to-morrow morning, and the jury have been ordered to come again at that time.

Court.—If you can show me that under parallel circumstances a superior court judge of one of the provinces would admit to bail, I think I have power under the recent Act, by which my powers have been somewhat extended.

Mr. Clarke.—Very considerably extended, I should say. I submit that matter to your lordship, and hold that your lordship can admit to bail without there being a court.

Subsequently arranged that the prisoner be simply under the surveillance of the sheriff till to-morrow.

WEDNESDAY, 9 a.m., 9th September, 1885.

Court opened. Jury called.

Clerk.—Thomas Scott, these good men that you shall now hear are those that are to pass between our Sovereign Lady and you, if therefore you will challenge them or any of them you must challenge them as they come to the book to be sworn and before they are sworn, and you shall be heard.

The following jury was then sworn: 1st, Joseph Antoinette; 2nd, Robert Robson; 3rd, James Williamson; 4th, David H. Gillespie; 5th, J. P. Laidlaw; 6th, Hector Ross.

Clerk.—Gentlemen of the jury: The prisoner at the bar stands charged as follows: Thomas Scott, not regarding, &c. (clerk reading the charge as contained in the indictment given above). Upon this charge the prisoner at the bar has been arraigned, and upon his arraignment has pleaded not guilty, your duty therefore is to hearken to the evidence, enquiring whether he be guilty or not guilty.

Mr. Osler.—May it please your Honors, gentlemen of the jury: The prisoner, Thomas Scott, who resides in the neighborhood of Prince Albert near the Saskatchewan River and who has resided there some seven years, is charged in various counts

with the crime of treason-felony, a crime akin to the crime of treason. Treason may be proved by the same acts as treason-felony, and treason-felony can be proved by the same acts as treason, but the method of trial is somewhat different, and the result is different. Treason is always, as you know, a capital offence, a conviction for treason-felony is not followed by capital execution, but is followed by imprisonment for a term which may be for life or for such lesser period as the court sentencing may think fit. It is one of the most serious crimes known to the law, it is a crime against society, and against the Government, and the provisions for punishment of treason-felony are provisions for the safety of the community—to keep the community at peace, to prevent insurrection and civil war and to compel unruly spirits to curb their desires for any change in the methods of government other than constitutional and proper methods of producing change. The case against the prisoner is one, as you know well, arising out of the recent trouble and rebellion in the northern part of these territories. There have been other trials of Indians and French half-breeds, and the prisoner is English or of English descent, English, Irish or Scotch descent, I don't know which, he is the only one of his nationality I believe who is charged as being concerned with the rebellion, and it has been thought right that there should be no distinction in nationalities in these state prosecutions, but that each nationality, no matter what may be the circumstances surrounding them, if they are shown to have participated in any way in the rebellion should be treated the same, and the prosecution should be fairly conducted against all, and no one nationality should be selected as a chief cause of the troubles, but wherever there is crime, wherever there are rebellious acts calling for punishment, it is but right as you will see that all the nationalities composing the community should be treated alike, and where you find a man who has been brought up with better opportunities of knowing the consequences of such crime, a man who ought to know better and who offends, so to speak, against light and knowledge—if crime is brought home to them, a larger measure of responsibility rests with them.

Now, gentlemen, in this case, if the theory of the Crown is borne out in the evidence, matters look very serious for the prisoner. We do not charge that he with rifle in hand met the troops. We do not charge and do not propose to prove, that he was concerned in actual armed opposition to the forces of the Government, but we prove, if our evidence is as I am instructed, acts of inciting to rebellion, acts of aiding, of comforting, of consulting them and endeavoring to bring about the results which were sought to be obtained by the resort to arms on behalf of the Indians and half-breeds. He draws the line—the evidence will show that as far as he was concerned, he was not one of those who desired to fight. He was one of those however who sought to bring constraint upon the Government, who aided and comforted those taking arms, although perhaps it will be made to appear that when the resort to arms took place, he did perhaps what he could to prevent immediate bloodshed. Just as a man who starts a conflagration by his carelessness or his act and is frightened at the result and seeks to put an end to it, so we say this man by his aid and by his comfort and his assistance up to a certain point helped in rebellion and was one of the causes leading to rebellion, the rebellion; while, when it came to be a matter of personally joining the rebels in arms, he draws back.

Now, to understand just the seriousness of his offence, you should understand how strongly the law lays down the duty of every subject where treason is known, to disclose it. Where a man knows of a treasonable act, and he does not forthwith disclose it to the authorities, he is guilty of a crime; for a man to know of treason and to promise a man who is an active traitor to remain neutral; that is a crime; for it is held to be the duty of every man receiving protection from the state and from the Government, to disclose treason against that state, and to aid when called upon by the state to put it down. We all live in the community, and the first duty on every one in a community is to protect the community, the state and the Government as a whole. It is immaterial for the purposes of that law what party governs. Party government is but a secondary consideration. It is immaterial what party is in

power, who have immediately the reins of power; it is not loyalty to the individuals who hold the reins of power for the moment, but it is loyalty to the state, loyalty to the Government of the country; not as composed of individuals, but as constituted by authority, and that is the difference between political opposition to any particular parties who may have the reins of power for the moment, and that opposition which is called treason or treason-felony, or misprison of treason; and he takes in this free country a great responsibility upon himself who allows in any way his political feelings of animosity to any particular party or his particular political feelings as to the Local Government there existing, to allow himself to associate and aid those who are willing to take up arms and cause a civil war to bring about the purposes they have in view. Now, bearing in mind the duties then cast upon each individual in a community, duties which have been well defined and laid down throughout the growth of the British constitution, carefully considered in various state trials that have taken place in the past few centuries, and which are laid down in the lines of law that have existed for centuries, you will also remember that we are not here prosecuting for a treason or a felony which has resulted in nothing material; for instance, many men are technically guilty of treason by doing acts, publishing letters, but they result in nothing; but we are here enquiring into circumstances which have resulted in open war, which have resulted in the loss of some 200 lives. Over 200 men having the right to live, and living in health and strength this time last year, have been cut off and sent to early graves by the treasons existing in this country, this territory. Millions of treasure have been spent in suppressing it, and when you consider the result you may well see the wisdom of the law which makes it a crime at the very inception; where the consequences are so terrible if the little stream of treason is allowed to trickle down and expand until it becomes a river. So the law lays down, and it is absolutely necessary for the safety of the community that it should be laid down, that wherever the smallest treason exists the firm hand of the law must stop it, and if this trial results in nothing else than in a lesson to the community of the caution and care that has to be taken where treason exists at all, in aiding, in counselling, in communicating with the enemy, the trial will not be in vain.

Now, gentlemen, on and after the 18th March of this year, an open rebellion against the authorities, armed rebellion against the authorities existed. Prisoners were taken, stores were raided and freighters stopped, and the section of the country put in terror of the armed forces then assembled at Batoche, Duck Lake, Carlton, and the neighborhood of the two rivers. That rebellion, as you all know, was managed or led by Louis Riel. We will bring home the knowledge of that state of things, the knowledge of the insurrection to the prisoner; he had that knowledge as will undoubtedly appear by the evidence—at all events at the time when the overt acts we charge him with were committed. Now, with that knowledge, he had one duty to perform as a subject—to tell the authorities what he knew, to aid when called on in suppressing it.

Now, we charge him in overt acts, with counselling and compassing with others to levy war. Now, a man who counsels to aid those who are in insurrection counsels to levy war. He does not need to counsel a certain arming, to counsel a certain shooting, to counsel certain movements, but if he counsels in any way to aid, he comes within the overt act charged. Now we will show to you that immediately upon trouble being apparent and the body of mounted police being weak in numbers, probably unable to compete with the numbers armed against them—the number of police I believe being only something, at Fort Carlton, less than 100, and the immediately objective point at first being the capture of Fort Carlton—in Prince Albert, a company of volunteers was formed to aid the police. Loyal men left their families, left their places of business and shouldered their muskets, and went forward to help their country. Now we will prove that the prisoner there in all ways in his power publicly at meetings of the inhabitants counselled and desired to get the volunteers to lay down their arms, to go home, wanting to let the 300 or 400 rebels and the less than 100 police fight it out—leave them alone, leave the armed men who are in rebellion, and leave the police to fight it out; break up, volunteers. Now, we wil

bring that home, conclusively, I think, to the prisoner; he desired, we say, to aid the movement in so counselling. If he desired to do so, he comes within the overt acts charged. It will be proved to you that on the occasion of one or two public meetings, that this is what he proposed, the laying down, by all concerned, of the inhabitants, of arms to aid to suppress the rebellion. He seems to have wanted to go this far with armed insurrection, and let the rebels have a tussle with the police, or let them capture the police without bloodshed, and then let us enter into a treaty, let us make use of the advantage that we gain to enter into a treaty with the Government to compel them to do what we think they ought to do. Well, now, that is compassing. That is acting for the purpose of putting constraint, force and constraint upon the Government, and that is treason-felony. Now, I shall not go in detail over the various overt acts that you have heard perhaps two or three times, if you were in court yesterday. They are alleged with technicality and precision, and they are put in the evidence as it is given, and it is better that you should take the exact facts from the mouths of the witnesses rather than from the mouth of counsel, and I therefore merely outline to you the class of evidence that we propose to give, because sometimes it is difficult to distinguish when you come to retire to consider a case—it is difficult to distinguish where counsel has stated the evidence with great particularity, between what counsel has stated and what the witness states, and it is better that you should get your impressions of the exact details from the mouths of the witnesses.

But our evidence against the prisoner does not rest entirely upon the recollection of witnesses as to his transactions. A most serious item of evidence against him, is a letter written by him to the French council, and if that letter is brought home to the prisoner, as I think it will be, if it is brought home that that letter was found in the possession of the enemy, as it will be, for it was captured among their papers at the council house in Batoche, then you have in writing, over the signature of the prisoner, a letter which is sufficient to convict him, if at the time he wrote it he knew the parties to whom it was addressed were in open insurrection against the Government. Now that letter bears date the 23rd of March. After the various stores had been raided, after the prisoners had been taken and were then in custody, after it was known by the prisoner that this open insurrection was in existence, he writes this letter:—

RIDGE, 23rd March, 1885.

To the French Council,

At a meeting held at Lindsay schoolhouse to-night, which was largely attended, the voice of every man was with you, and we have taken steps which I think will have a tendency to stop bloodshed and hasten a treaty. We will communicate with you inside of forty-eight hours after you get this, and notify us of any steps, if any is liable to take place.

Now, that directly comes under the charges made, that is, aiding and comforting, that is, compassing and imagining, under either sets of counts. You see how he treats them as a power in existence outside the Government, with whom the Government was to make a treaty, and he recognizes those men in arms in organization for the purpose of bringing constraint upon the Government, and he recognizes them as being in such a position as to have a treaty made with them, and he proposes to aid them in bringing about that treaty, in bringing about the purpose for which they had taken up arms. Instead of saying, as I believe the great majority of people said, in the neighborhood of Prince Albert, now you have taken up arms, we have done with you, he writes this letter, which is in itself treason or treason-felony. We will further show to you that after these men had assembled, in arms, and were in arms at Batoche, with loyal men as prisoners; we will show to you that Scott came over to the French council, as he calls them in this letter, and took counsel with them and went up into their council chamber, and was there for a considerable time discussing and talking with them. I don't know that we will be able to show what passed, but if we show him there in connection with his other statements, and those letters, you have a right to say that

at that time he was there for a treasonable purpose. It may be, and I dare say the evidence will show that Scott's object, one of his objects, was to bring about that which he desired, whatever it was, without bloodshed. All people who undertake rebellion desire to avoid that, if by show of force they can get what they want without it; actual fighting is what no man desires, if by any other means the object can be attained, and no doubt the defence will show that the prisoner, after a certain point, did all in his power to, desired to do all in his power to prevent bloodshed; but that is not a defence, that may be a matter in mitigation, should he be found guilty, on the question of sentence. It is not a defence for a man, after committing a crime, to repent of it or to be sorry that he had gone so far. We may, I think, take from the evidence that there never would have been a breaking out or taking up of arms by one section of the community if they had not, up to a certain point, by the acts and words of the others, expected them to join them. If that expectation was disappointed, nevertheless, it leaves a most serious responsibility on those who encouraged and who aided the men who eventually resorted to arms.

Now, gentlemen, we have here nothing to do with the causes of the rebellion. No man can justify treason by saying that he is ill-governed. I don't understand that Thomas Scott was one of those men who had any particular grievance. He is not a French half-breed. There were said to be grievances existing. They may or may not have existed. They may or may not have been serious. There may have existed sometimes those little irritations which it is very difficult to avoid in administering government in a new country, and they may have been fomented and exaggerated by leaders for their own purposes, but the existence of grievances or of supposed grievances is no justification whatever for treason. History shows that grievances which existed will be cured by the Government; if not by their own act, by the force of public opinion, sooner or later. It is for the loyal subject to wait and to suffer rather than to rebel and become a traitor to his country. You have got to bear in mind that this country has but an existence but of yesterday, as far as government by the Dominion of Canada is concerned, and in redeeming a wilderness and turning it into a civilized country, there must necessarily be complications, there must necessarily be difficulties, there must necessarily be delays. Where these exist, it is for a loyal people to endeavor to remove them by every possible constitutional means in their power, and it is for them to suffer for the good of the community rather than do that which brings the people of the country into anarchy and confusion.

As far as the prisoner is concerned, it is immaterial, it is not to be discussed whether he had or had not a grievance. As far as one can learn of the grievances existing, they seem to have existed simply in the minds of the old and original inhabitants of the country, who seem to think that the English-speaking tongues were, perhaps, pressing too hardly upon them. That excuse, if it could be an excuse, does not avail, when we find a man coming from some of the other provinces or from the old country, into this country, and availing himself of the protection of the laws existing here.

Now, gentlemen, you will hear the evidence, and if we make out to your satisfaction any one of the overt acts charged, that is sufficient. We charge them in various ways, for technical purposes, in order that my learned friends on the other side may know the whole extent of the charges we are going to make; but if any one of them is found to be true, that is sufficient for you to act upon in passing upon the guilt of the prisoner.

WILLIAM TOMKINS sworn:—

Examined by Mr. Scott:

Q. What is your occupation, Mr. Tomkins? A. Interpreter.

Q. In any public capacity? A. In the Indian Department.

Q. Were you such on the 18th March last? A. I was taken prisoner.

Q. You were interpreter at that time? A. Yes.

Q. You were taken prisoner? A. Yes.

Q. Where? A. At Batoche.

Q. By whom? A. By Louis Riel.

Q. Anyone else? A. And a number of half-breeds, Gabriel Dumont amongst them.

Q. In what condition were they at the time they took you prisoner? A. They were in rebellion.

Q. How did you know they were in rebellion, what led you to think they were in rebellion? A. They all had guns, principally.

Q. Where were you at the time they took you prisoner? A. I was at Kerr's store.

Q. Where was that? A. About two miles from Batoche, I should judge.

Q. Was there anyone with you? A. Yes; Mr. Lash.

Q. Who was Mr. Lash? A. Indian Agent.

Q. Indian Agent where? A. At Carlton.

Q. Was he taken prisoner? A. Yes.

Q. At the same time? A. Yes.

Q. You say Riel and a number of half-breeds—did you recognize any other half-breeds besides Riel? A. I recognized them at the time.

Q. Where did those half-breeds that you did recognize, live? A. They lived around Batoche.

Q. They lived in the neighborhood of Batoche? A. Yes.

Q. What time was it on that day you were then taken prisoner? A. To the best of my knowledge, I think it was about four o'clock in the afternoon.

Q. What was done with you after you were taken prisoner? A. I was taken to the church.

Q. Where? A. At Batoche.

Q. And what was done with you there? A. They kept us there.

Q. How did they keep you? A. Under guard.

Q. With a guard over you? A. Yes.

Q. They remained there for how long? A. They kept us there till night, and then they removed us.

Q. Where to? A. Across to Mr. Baker's store, across the river.

Q. What is the name of that place? Is there any name? A. No; it is Batoche.

Q. Were there any other prisoners there besides you and Mr. Lash? A. Yes; Mr. Walters and Mr. Hennipin were taken prisoners, and their store had been gone through.

Q. They had gone through their store? A. Started at it.

Q. Did you see them? A. Yes.

Q. What do you mean by going through the store? A. Taking stuff.

Q. Who? A. These half-breeds.

Q. The same half-breeds that took you prisoner? A. Some of them, yes.

Q. A portion of the same body? A. Yes.

Q. Where were you taken to from Walters & Baker's? A. Taken back to the church next morning.

Q. And afterwards? A. Taken down to Philip Garnot's.

Q. And how long did you remain at Garnot's; until what date? A. We remained there until we went to Duck Lake.

Q. You went to Duck Lake? A. Yes.

Q. That is, you were taken to Duck Lake? A. Taken to Duck Lake.

Q. On what day? A. On the 26th March.

Q. By the same guard and same party? A. Half-breeds took us over.

Q. Now, this armed party that you speak of as having taken you prisoner and afterwards taken you to Walters & Baker's store—did you see them doing anything? A. I saw them taking goods out of the store.

Q. Out of Walters & Baker's? A. Yes.

Q. You saw them taking goods, and did you see them doing anything else? A. Yes, they brought in some prisoners that morning, too.

Q. How many? A. Two.

Q. Then after you got to Duck Lake you say these men were in rebellion, and you told us they were armed, and they took you and several others prisoners, and that you saw them raiding Walters & Baker's store—did you see them do anything else afterwards? A. Well, when we went to Duck Lake I seen them starting out to the front to fight.

Q. How many rebels were there in the neighborhood of Duck Lake at that time—about the time you saw them starting out to fight? A. I should judge there were about 400.

Q. You say that some of them were armed—those that took you prisoner were armed? A. Yes.

Q. Were the others armed as well? A. They were all armed then at the lake.

Q. You say you saw them starting to the fight; was there a fight? A. Yes.

Q. How do you know there was? A. I could hear.

Q. You could hear what? A. I could hear volleys.

Q. Have you any other means of knowing that there was a fight after it was over? A. Yes; I was on the field; I went out after the battle.

Q. But did you know that afternoon; did you find out that afternoon from any other source that there had been a fight? A. Yes, from Riel.

Q. Riel told you there had been a fight? A. Yes.

Q. Did he say anything as to what the fight resulted in? A. He said it resulted in favor of Riel.

Mr. Clarke.—Is this supposed to be evidence—what Riel told this witness? Is this evidence in the case of Scott—a thing that occurred on the 26th March? I object most emphatically to it.

Mr. Osler.—We only show the common action. Probably in that case we will not prove what Riel said until we have connected him.

Court.—There are two ways to establish it. You may show the facts first and the connection afterwards; lay the ground for the connection first, and then supplement it by facts.

By Mr. Scott:

Q. You say that you are interpreter for the Indian Department. Where do you live; where is your home? A. Carlton was, but Prince Albert now.

Q. Do you know the prisoner? A. Yes.

Q. Do you know where he lives? A. Yes.

Q. How far is that from Batoche or Duck Lake? How far is it from Duck Lake? A. About 30 miles or so.

Q. Which way? A. North-west; no, it is in a northern direction.

Q. Do you know Lindsay schoolhouse? A. Yes.

Q. How far is that from the prisoner's residence? A. It is quite close there.

Q. Do you know the St. Catharines schoolhouse? A. Yes.

Q. How far is that from the prisoner's residence? A. I should judge it would be about a mile and a half; no, it is about four miles, I suppose, or five.

Q. And the Lindsay schoolhouse is quite close, you say—how close? A. About three-quarters of a mile or half a mile, I should judge.

Q. Then Lindsay schoolhouse is in the neighborhood of 30 miles from Duck Lake, you say? A. Yes.

Q. How far is Duck Lake from Batoche? A. Six miles.

Q. Is it on the road from Batoche to these places? A. Yes.

Q. Then the Lindsay schoolhouse would be about 35 or 36 miles from Batoche, you think? A. Yes, about that.

Q. Is St. Catharines schoolhouse farther away or nearer? A. It is nearer Prince Albert.

Q. That would be about 40 miles? A. Yes.

JOHN W. ASTLEY, sworn :—

Examined by Mr. Osler :

Q. You were, I believe, in the early days of the rebellion employed as scout ?

A. Yes, at Prince Albert.

Q. For the authorities ? A. Yes.

Q. Were you taken prisoner ? A. Yes. I was taken prisoner the 26th March at three o'clock in the morning.

Q. Are you sure about the 26th ? A. Yes, that is the date.

Q. Do you know the prisoner Scott ? A. Yes.

Q. Had you seen him at any time prior to that date ? A. Yes ; when they were talking about raising volunteers at Carlton and Prince Albert, I was driving down the street going to meet Capt. Moore, and the prisoner came up and Capt. Moore spoke to him, and he told him not to go on raising volunteers and take them to Carlton, but let the police and breeds have it settled between themselves, and that if he took volunteers there it would cause a war of races between the settlers and the half-breeds. That is all I remember passing at that time. That would be about the 17th or 18th March.

Q. That was at the time ? A. When they were talking of raising volunteers for Carlton.

Q. What was the necessity for volunteers ? A. Major Crozier I believe sent a message to Capt. Moore.

Q. For what particular object ? What was the state of things ? A. The half-breeds had risen in rebellion.

Q. And Capt. Moore was interested ? A. He was asked by Major Crozier to raise a certain amount of volunteers for Carlton.

Q. How did the prisoner come to speak to him ? A. We were going down to the meeting, and he was driving past, and he jumped out of his sleigh and spoke to Capt. Moore just those words.

Q. Asking him not to go on with the movement ? A. Not to go on with the movement.

Cross-examined by Mr. Clarke :

Q. When did this conversation take place ? A. The date I would not be certain about, but it seems to me it would be the 17th or 18th, when they were talking of raising volunteers. It was the day before the prisoner was arrested at Batoche. It would be the 18th when they were arrested, and this would be about the 17th. I think there were two meetings in Prince Albert, and one was to just discuss the matter, and that was one. Capt. Moore I believe had been out at the Ridge.

Q. Confine yourself to the facts as near as you possibly can ; we want nothing of your belief, we want simple facts. Now Capt. Moore is not here, I suppose ? A. He has gone to the old country.

Q. Was there anybody else present at this conversation ? A. No, Capt. Moore and I were driving down in a cutter by ourselves.

Q. And he is in the old country ? A. Yes.

Captain GEORGE HOLMES YOUNG, sworn :—

Examined by Mr. Osler :

Q. You were connected, with the forces I believe in the field, suppressing the rebellion ? A. I was.

Q. What was your position ? A. Brigade major of the infantry brigade.

Q. As the result of the rebellion spoken of by Tomkins, were forces brought into the field ? A. The Dominion sent forces into the field.

Q. Under the command of— ? A. Major General Frederick Middleton.

Q. And as matter of formal proof, was there active hostility and conflict between the troops ? A. Active hostilities and conflicts between the troops and the rebels at two points at which I was present.

Q. You were present at — ? A. Fish Creek and Batoche.

Q. And lives were lost on both sides ? A. Lives were lost on both sides.

Q. Did you have anything to do with the finding of the papers in any particular house at Batoche ? A. I found a large number of papers and books which turned out to be rebel state papers in council house at Batoche.

Q. Were you at the capture of that house ? A. I was at the capture of that house.

Q. Who was leading when that house was captured, immediately just there ? A. At that immediate point, I led. I led at that point.

Q. And yourself and men took that house ? A. We took it, and I went up stairs.

Q. Then, what were the class of papers that were found there ? A. Minutes of council, letters, reports of scouts, and documents of various kinds, some private papers and accounts, but generally papers in connection with their movement.

Q. Do you recognize the paper produced (Exhibit No. 1) as being among those papers ? A. Yes, I recognize this paper.

Q. As being one found where ? A. Found in the council chamber at Batoche.

Q. With any other papers ? A. With a large number of papers, letters from various parties, and the reports of scouts, the names of their captains, the minutes of the council, orders of council, most of them labelled or rather docketed in the same handwriting as this is docketed.

Q. You identify this, then, as one of the papers you took possession of in the rebel council house ? A. I do.

Q. On what day was that ? A. On the afternoon of Tuesday the 12th May.

CHARLES F. TUCK, sworn :—

Examined by Mr. Scott :

Q. What is your occupation ? A. I am clerk in the post office, inspector's office, Winnipeg.

Q. How long have you been in that position ? A. Three years. Three years this month.

Q. Then, you are conversant with the business that has been done in that office during that time ? A. Yes.

Q. You have some papers with you that were returned from the Ridge post office ? A. The Kirkpatrick post office, yes.

Q. What are they ? A. There is a bond here of the postmaster there at that time when the post office was established.

Q. When was that ? A. That was in April last. It was earlier than that—it was in January or February. It was established first.

Q. Which is bond ? A. One is a bond, and the next a declaration, and the last is an authority from Ottawa authorizing the person of that name to be postmaster at Kirkpatrick.

Q. It is a bond from Thomas Scott who was appointed postmaster there, and his sureties ? A. Yes.

Mr. Clarke.—Stop. Do the Crown pretend to prove the appointment of a postmaster by a clerk from a post office in Winnipeg ?

Mr. Osler.—No, we are not proving that. We are simply producing the papers.

Mr. Clarke.—Then, I want to know what these papers are, or what gives them authenticity, by what means they are brought here, and I won't allow one iota of evidence to be given of anything that can be proved by the *Royal Gazette* being proved by a petty clerk from the post office in Winnipeg. I am astonished to find such an attempt. The witness is asked—this is the appointment of a postmaster ?

Court.—I beg your pardon, he says this is the bond purporting to be signed by Thomas Scott.

Mr. Clarke.—Of what ?

Court.—I don't know what it is.

Mr. Scott.—It purports to be signed by the postmaster at Kirkpatrick. (Bond marked exhibit No. 2.)

Q. And this (Exhibit No. 3) is a declaration purporting to be signed by Thomas Scott, postmaster at Kirkpatrick? A. Yes, and these (Exhibit No. 4) are the signatures for the receipt of the mail at the post office.

Q. These were received at the Department? A. At our office at Winnipeg.

Q. From where? A. The last comes from Troy.

Q. They purport to be signed by—? A. By the postmaster at Kirkpatrick.

(Witness here points out what purports to be the signature of the postmaster at Kirkpatrick in these papers.)

Q. Do you know what is required of the postmasters as to signing these bills—required by the Department?

Mr. Clarke.—I object to any such question. That is not the mode of proving it.

Mr. Scott.—What is the ordinary custom in the Post Office Department as to this sending—the signing of these way-bills?

Mr. Clarke.—I object to that also.

Mr. Scott.—I submit, your Honor, that is a proper question.

Court.—What is the ordinary rule in the Department?—That can be put.

Mr. Clarke.—I submit there are rules in the Public Departments, post offices as well as others, and they are printed or written and properly signed by the head of the Department, and such rules should be produced here to speak for themselves, and without their production no secondary evidence can be given of them—their contents.

Court.—Have you any authority to refer me to?

Mr. Clarke.—I don't think it is necessary. It is an elementary principle with reference to examination on a written or printed document.

Court.—The question was, what was the ordinary custom of postmasters as to signing these way-bills?

Mr. Clarke.—I think the question is put in a different way. The ordinary custom in post offices must be given by the postmaster and over his signature.

Court.—Your objection, as I understood it, was that all the rules governing the Department must be in writing, and these should be produced.

Mr. Scott.—I am not asking the question as to the custom in that particular post office at Kirkpatrick, but I ask the custom of the Post Office Department.

Court.—I think the question may be put.

Mr. Clarke.—Then your Honor will note my objection to that question.

By Mr. Scott:

Q. What was the custom? A. They are supposed to sign these way-bills also on receipt of the mails at the post office.

Q. And to do what with them, or to do anything further with them? A. Well, simply to send them on to the next office on the route, and if their office is the last one they come to our office.

Q. They eventually come to the Inspector's Office in Winnipeg? A. Yes.

Q. Were those particular bills produced now received in that way? A. Received at our office.

Q. In that way? A. Yes, in that way.

Q. Have they been there? A. Yes, they have been in our office all the time since.

Q. On file? A. Yes.

Q. In the ordinary way? A. In the ordinary way.

Cross-examined by Mr. Clarke:

Q. You are not the postmaster at Winnipeg? A. No.

Q. There is a postmaster? A. Yes; there is.

Q. What is his name? A. William Hargrave.

Q. Do you pretend that where these lists come along to the post office they must be signed by the man who is acting as postmaster? A. Yes.

Q. They must? A. Yes.

Q. You swear that that is the case? A. That they must be signed?

Q. Yes? A. Certainly, that is one of our rules.

Q. I am not asking you that, but do you swear that list is signed by postmasters and by nobody for him? A. No; I don't.

JOHN McNIVEN sworn:—

Examined by Mr. Osler:

Q. Where do you live, Mr. McNiven? A. In the North-West Territory.

Q. That is a pretty large home? A. Yes.

Q. Do you know Thomas Scott? A. Yes, I do.

Q. Where does he live, and be a little more particular than in your last answer?
A. He lives in a place called the Ridge.

Q. In what neighborhood? A. In the neighborhood of Prince Albert.

Q. Do you know of his occupying any office? A. Yes, I always understood that he held office as postmaster.

Q. At what post office? A. Kirkpatrick.

Mr. Clarke.—Now, before this goes any further, I object to this as evidence at all. There is a mode of proving who were appointed postmasters and who were not, and to get from this man or any other man in the community that he always understood such a man was appointed postmaster or appointed judge is not exactly the way to do it, and I object to this being received as evidence.

Mr. Osler.—My learned friend very well knows that I can always prove *de facto* the occupant of any office, and it is presumed that he is the officer.

Mr. Clarke.—It is not presumed.

Court.—A man who represents himself as such and acts as such is presumed to be so appointed, until the contrary is proved.

Mr. Clarke.—I object and I ask that my objection be noted, that the appointment of a postmaster should be proved by the official *Gazette*, that is the way we generally do things in this country.

Court.—Postmasters are not appointed through the official *Gazette*.

Mr. Clarke.—That is a question, my lord.

By Mr. Osler:

Q. What do you know of his acting as postmaster in that post office? A. Well, he delivered me mail and letters.

Q. Was that your post office? A. Yes.

Q. And he would deliver your mail and letters from time to time, as you called for them? A. Yes, he was not generally delivering at every mail, sometimes there would be somebody else in the office, he had another boy there.

Q. Who was in charge of the post office, who was the proprietor? A. I always understood Mr. Scott.

Q. And you treated him as such? A. Yes.

Q. For how long has he been postmaster? A. He has been postmaster since some time last winter any way, I am certain of that.

Q. Who is postmaster now? A. This young fellow that used to attend the office in Mr. Scott's absence I believe is postmaster.

Q. Well, did you ever know any other Thomas Scott postmaster at Kirkpatrick?
A. No.

Q. Well, do you know this paper (paper marked Exhibit No. 6)? A. Yes.

Q. Whose writing, handwriting, is that in? A. Thomas Scott's.

Q. Do you mean Thomas Scott the prisoner? A. Yes.

Q. How do you know that is in his hand-writing? Are you the John McNiven named in it? A. Yes.

Q. Did you ever have this in your possession? A. Yes.

Q. How did you get it in your possession? Who did you get it from? A. From Thomas Scott.

Q. It is a due bill to you? A. Yes.

Q. And he handed it to you? A. Yes.

Q. Whose signature is that, whose signature did he give it to you for? A. Thomas Scott.

Q. Did you see him write it? A. Well, it is so long ago—

Q. But he gave it to you as his signature and his due bill? A. Yes.

Q. Do you know in whose handwriting this paper (Exhibit No. 7) that I now produce to you is in? A. Scott's handwriting, I should think.

Q. You have seen him write? A. Yes.

Q. When was it known, Mr. McNiven, in your neighborhood, that armed rebellion had broken out? A. The first time I knew of it was the evening of the 20th March, 1885. I believe it was the 20th—the evening of the volunteers going up.

Q. On that evening where did you go? A. I went to a meeting that night.

Q. Where? A. Lindsay's schoolhouse.

Q. Where is that with reference to, say, Prince Albert? A. I should judge it would be about fifteen or sixteen miles from Prince Albert.

Q. Was the prisoner at that meeting? A. Yes.

Q. Who was in the chair there? A. Thomas Scott.

Q. The prisoner? A. Yes.

Q. Was it made known at the meeting, or what was said as to the rebellion, the position of matters? A. There was nothing said in the meeting that I heard about the rebellion, anything more than—yes, there was, the secretary drew up what he supposed the meeting was called for.

Q. Well, was there any discussion at that meeting? A. No, there was none.

Q. What did they meet for; was there any talking? A. There was no talking, only appointing a delegation up to Duck Lake or the south branch; there was nothing done that I seen at the meeting more than that.

Q. What was the occasion of the meeting; what was the trouble? A. The only thing that I understood at the time was what the secretary had said.

Q. Said in public? A. Yes, in the meeting.

Q. And what was that? A. Well, it was something to the effect that seeing that the French were under arms and that it left the settlement in a kind of a dangerous position, that they thought it was necessary to send a delegation up to Duck Lake or to the French, to see what steps might be taken for the settlers as a rule to protect themselves against the outbreak.

Q. Well, was the matter of the French being under arms in discussion there or known to that meeting? A. Oh, it was known to the meeting, for the secretary stated it.

Q. Of which meeting Thomas Scott was chairman? A. Yes.

Q. And there was very little discussion except on the safety of the settlement? A. That was all, as a rule.

Q. Now, was the prisoner appointed to any position on that occasion—

Mr. Clark.—Now I don't care for objecting, unless it is necessary, would it not be more proper to ask what business was done at that meeting and let the witness give his version of it?

Court.—Yes, I suppose it would be, perhaps. I don't know that the question is improperly put though.

Mr. Osler.—It is not a matter in dispute, and I don't desire to lengthen matters by allowing the witness to go on and state what might be perhaps irrelevant.

Mr. Clark.—Might it not be better to ask what discussion took place?

By Mr. Osler :

Q. Was any delegation appointed for any purpose at that meeting? A. Yes.

Q. Who was appointed? A. Thomas Scott, and a man by the name of Ross, I don't know his first name, and a man by the name of Willie Paquin.

Q. Where were they to go? A. Well, the secretary said they were to go to the French.

Q. Now, had you any talk with the prisoner on that occasion, as to the calling of another meeting; or as to what should be done when the deputation got back? A. Yes, I asked Mr. Scott. It was supposed at the meeting that the meeting was to adjourn when the delegation was appointed, and I asked Mr. Scott how the people were going to get the information when they came back, whether it was necessary to have another meeting or was everybody to go and hunt his own information, and Mr. Scott said it was a hard question to answer, because, he says, if we cannot keep out of the way of the police, may be we won't get back for some time, it was something to that effect; it might not be exactly the same said, but it was to that effect.

Cross-examined by Mr. Clarke;

Q. You were present at this meeting, Mr. McNiven? A. Yes.

Q. Did you vote for the appointment of this delegation? A. I did not.

Q. What did you do at that meeting? A. I did not do nothing but ask Mr. Scott this question.

Q. Were you present at the meeting during the time that delegation was being appointed? A. Yes.

Q. Did you object to a delegation being appointed? A. I did not.

Q. Wasn't that the continuation of a series of meetings that had been about that place? I don't know. I was not at no other meeting.

Q. At all? A. Not since the fore part of last summer.

Q. You say that Thomas Scott, the prisoner, was in the chair? A. Yes.

Q. Immediately after taking the chair did he call upon anybody to speak? A. He called upon his secretary.

Q. Now try and recollect, Mr. McNiven, were you called upon to speak? A. Yes, I was.

Q. Was that a meeting of rebels ready to go and assist the French to cut the throats of all their fellow subjects? A. What is your question?

Q. Was that a meeting such as you or any loyal man would be afraid to attend or ashamed? A. No; I did not think so at the time.

Q. Was it not a meeting that was called purposely to try and prevent trouble?

A. Oh, I don't know about that.

Q. Well, what do you know, then? A. I did not think so.

Q. You did not think so? A. No.

Q. Why did you go there? A. Well, a fellow finds out a different shade of things probably when he goes from when he left home.

Q. Who was the Secretary? A. William Miller.

Q. Is William Miller here? A. I guess he is. I don't know whether he is or not. I seen him around the town.

Q. Were there any minutes kept of that meeting? A. You had better ask the secretary about that.

Q. I ask you? A. I don't know whether there was or not.

Q. Then you were anxious to know what would be the result of this delegation? A. I was, certainly.

Q. You wanted to find out, like the others, what the French were doing? A. Of course I would like to have known at the time.

Q. Well, did you find out what they were doing? A. I did, but not from that delegation.

Q. Some time after, wasn't it, that the discovery was made of what they had had been doing? A. Yes, after we heard of the Duck Lake fight.

Q. You referred two or three times to Mr. Miller, the secretary. Will you tell the court and jury, you being there and seeing this secretary, that you cannot tell whether that secretary wrote anything during that meeting? A. I cannot tell, because I was in the far end of the building, and I could not see him, all his movements. I understood that he was supposed to do it, anyway.

By Mr. Osler :

Q. Why do you say it did not look like a loyal meeting, or words to that effect, you made use of? What was done there at that meeting? A. Well, neither at did, when I seen what the meeting was about.

Q. Just give us what took place there? A. Well, I gave my statement on that point.

Q. Well, is there anything else? A. No, nothing else that happened in the meeting that I know of.

Q. Well, at the breaking up of the meeting, was there anything happened? A. Yes.

Mr. Clarke.—Now, your Honor, I must object to this. The Crown has a right to re-examine on any point or matter elicited on the cross-examination, but this is beginning again an examination in chief.

Court.—I think it is a question arising directly out of your cross-examination.

By Mr. Osler :

Q. Was there anything happened at the elpse or towards the close of the meeting which helps you to found the opinion that the meeting was not a loyal meeting? A. There were three cheers for the delegation.

Q. And anything else? A. And there were three cheers for Louis Riel.

By Mr. Clarke :

Q. Did you cheer, Mr. McNiven? A. No, I did not.

Mr. MacIise attempts to cross-examine—

Mr. Osler.—Let us be regular.

Mr. Scott objects to either counsel cross-examining now.

Mr. Clarke.—This is a new question that is brought out, and it should have been brought out, if brought out at all, on the examination in chief.

Court.—Suppose the witness had been discharged and called again, couldn't he be recalled again?

Mr. Clarke.—He could most undoubtedly, but he would become a new witness and give us the same chance over again.

Court.—The only thing you have any right to ask a question on would be regarding these cheers.

By Mr. Clarke :

Q. How many people were there that did cheer? A. Oh, I could not say how many.

Q. How many people were there there? A. I could not say that neither. I did not count them.

Q. Were there a large number of people there? A. There was quite a large number for the place.

JOSEPH KNOWLES sworn :—

Examined by Mr. Scott :

Q. Where do you live, Mr. Knowles? A. At Prince Albert.

Q. What is your occupation? A. I am in the banking business there.

Q. How long? A. For three years, a little over three years.

Q. Do you know Thomas Scott, the prisoner? A. Yes.

Q. Do you know his signature? A. Well, I dare say I could tell it.

Q. Did you ever see that paper before (paper marked Exhibit No. 8.) A. Yes, I have seen that paper before.

Q. Do you know whether that is Thomas Scott's signature? A. I believe it looks like it.

Q. Do you know that paper (marked Exhibit No. 6), what do you think as to that? A. That looks like his signature.

Q. Have you had any signatures of the prisoner in your banking establishment?

A. Yes.

Q. Would you make any enquiries about his signature when it came in, or would you consider you knew it? A. No, I would consider I knew it?

Q. Suppose that note (Exhibit No. 8) were presented to you, how would you take it? A. I would take it as his signature.

Q. And discount it if asked, I suppose? A. Yes.

Cross-examined by Mr. MacIise.

Q. On exhibit No. 6, "Thomas Scott and Joseph Thomson," aren't they the same?

A. They are similar. It looks to me as though they are the same person, although I have known Thomas Scott to sign similar to that one that is there, whether it may be in his handwriting, the whole thing, or Thomson's, I don't know.

Q. Whose signature would you swear positively that was to exhibit No. 1? A. I would not swear it was Scott's signature.

By the Court :—

Q. Do I understand you to say, with regard to No. 6, that you cannot speak as to the signature? A. I said that the whole of it—both Scott's signatures—might be written by this man Thomson. As far as I can judge, the handwriting looks something similar.

Q. In your banking business, you have stated that you would discount that note, with a signature of that kind? A. Yes.

Q. You would merely take your chances on it because it was made to Thomas McKay, was it not? A. Yes.

Q. It would be endorsed by Thomas McKay before you would take it? A. Yes.

Q. When there is any doubt in your mind about a signature being any man's, on account of your coming across so many signatures and seeing it very seldom—if there is any doubt in your mind, you don't take the note unless there is a good endorser on it, and if there is a good A-1 endorser on it, you will take the note, won't you? A. Yes.

By Mr. Scott :—

Q. Do I understand you to say you would not have taken this signature on No 8 exhibit without a responsible endorser? A. No; in this respect I would take it with McKay's endorsement.

Q. I understood you to tell my learned friend, Mr. MacIise, that you would take it as his signature because there was a good endorser to it, is that what you said? Suppose that note, exhibit No. 8, was made to a person you did not know, would you have taken it on the strength of its being Scott's signature? A. Yes, I would take it as being his signature.

Q. Irrespective of the solvency of the endorser? A. Yes, exactly.

Q. Would you take that signature in the same way (No. 1 exhibit); suppose that signature, as there, was attached to a note, would you take that? A. Yes, I would take that as his signature.

WILLIAM CRAIG, sworn :—

Examined by Mr. Osler :—

Q. Where do you live; in what neighborhood? A. St. Catharines, in the neighborhood of Prince Albert.

Q. Were you present at a meeting held at the Lindsay schoolhouse, at any date in March last? A. I was not.

Q. Were you present at any meeting in March last? A. Yes.

Q. Where was it held? In St. Catharine's church.

Q. What day was it held? A. It was held on the evening, Sunday, 22nd March.

Mr. MacIise.—There is no meeting referred to in the charge at St. Catharine's church.

Mr. Osler.—We don't propose to say anything about that, but we are going to give our evidence meantime.

Court.—Suppose he does, may he not bring out a fact on the charge of treason, and afterwards connect, and then it would be for you to say, if it was not connected—to draw my attention to it, so that the jury could be instructed.

Mr. MacIise.—And if it was not connected, it might have its effect on the jury.

Mr. Osler.—You will see, your Honor, that each overt act is charged on a given date, and on divers other days and times.

Mr. MacIise.—Certainly, but not places.

Mr. Osler.—We think so.

Q. Now, the meeting was a meeting of inhabitants held at the St. Catharine's church, on Sunday, 22nd March. A. Yes.

Q. Was the prisoner there? A. He was there.

Q. What was the occasion of the meeting? A. The meeting was held in consequence of the Rev. Mr. Matheson, minister of that church, who had been at Carlton, having been desired to come and hold that meeting, by Major Crozier, to ascertain the mind of the inhabitants at that crisis, and promote the interests of peace. I recollect the minutes of the meeting, as having been secretary, and those are the words of the minutes.

Q. What was the state of things as to the rebellion known to that meeting? A. Well, I cannot speak for what was known to other people definitely, but I knew myself, on the 20th day of March, two days previous to that meeting, that the French were said to be in arms, that they had looted a store or stores and taken certain prisoners; and I also knew, from having seen the volunteers under Capt. Martin and Capt. Moore to start for Carlton on the 20th March, the Friday.

Q. Was that state of things generally known? A. It was; I believe it was known to every man, woman and child in the place.

Q. And was that state of things the occasion of calling the meeting? A. Yes, it was.

Q. And the prisoner was there? A. Yes.

Q. Now, did the prisoner do anything at that meeting? A. He spoke.

Q. Had he any paper with him? A. He had.

Q. Did he say what that paper was? A. I cannot undertake to swear.

Q. What was that paper said to be by him? A. The paper, from internal evidence when he read it—

Q. What did he say as to the contents?

Mr. Clarke.—Not as to the contents—the contents of the paper must be produced, and they must speak for themselves. The Crown had every facility for having these papers here.

Court.—The witness makes an assertion.

By Mr. Osler :

Q. What words fell from the prisoner's mouth on that occasion, so far as you can recollect, whether he was speaking or reading? Q. I cannot give the exact words of the letter.

Q. I ask you what was the effect of what he stated, what he said? A. Well, the effect was, referring as I understood the writing to do, to the statements and matters—

Mr. Clarke.—This is talking of the contents of that paper.

Mr. Osler.—What I contend for is that whenever a man reads a letter, I can prove the words that fell from his mouth although I have not got the paper—

Court.—Yes.

Mr. Osler.—Although he was reading or purporting to read from a paper, and it was something that fell from his mouth, and was communicated not by the writing but by his lips; and if my learned friend contests that, that is the contention I propose to support.

Mr. Clarke.—I object now, as a proposition in law, to what was read from a paper or from a letter by the prisoner or by anyone else being proved as being what

fell from his lips. It was not his speech, it was the contents of a letter as much as if I were to take up any paper and read its contents.

Court.—He is asked what that man stated; he may give that.

Mr. Clarke.—He does not know whether he reads it or not. If he were reading the contents of the letter he would be reading the thoughts of another and not his own.

Court.—He makes them his own words.

Mr. Clarke.—I submit he does not. It may have been a public document, and it would not be his own words. I object to anything being stated verbally by this witness that was read by anybody at that meeting from a paper or from a letter, without the production of the paper or letter in question.

Court.—I rule that Mr. Osler may ask what the man stated.

Mr. Osler.—What did the man state with reference to that letter, or what did he purport to state? What did he say, in other words? A. Am I understood to be debarred from referring to anything that was in the letter?

Q. No? A. Well, the meaning conveyed to my mind, as I remember it, was, that the council of the French half-breeds at St. Anthony were justifying the position of antagonism to the Government, and they referred to the necessity of fighting, and as I understood the letter generally, it was to call on the English-speaking half-breeds to support their movement. I cannot, as I have said, give you the exact words of it.

Q. Did the prisoner say who the letter was from? A. I don't recollect that he said so.

Q. Did the prisoner say anything further? Did he propose anything? A. Yes.

Q. What was it? A. After putting the letter in his pocket, he suggested that the meeting, that meeting then present, should call upon those who had taken up arms for the Government, to lay down their arms. I understood—I believe that is as nearly as possible the words as he said them. I understood him to mean volunteers.

Q. Did he say anything further? A. Yes, he represented that it was very desirable that we should have a peaceable settlement of the thing, because the Indians were on the move, and he gave that as a reason for asking the settlers or volunteers to lay down their arms, because if they continued to arm against them, the Indians would rise in greater numbers, and he represented further that the half-breeds had great influence with the Indians, and if the settlers kept quiet, the half-breeds would be able to keep the Indians from breaking out.

Q. Then, what else? Was anything said as to the mounted police? A. Well, the expression was used to leave the French half-breeds and mounted police to settle the matter among themselves.

Q. That was to settle it among themselves? A. Between themselves; yes.

Q. Then, apparently, his desire was to get the volunteers, as you understood it, to lay down their arms? A. Certainly.

Q. And let the half-breeds and the police fight it out? A. Yes.

Q. How did he leave the meeting? A. After he had spoken, and after many others had spoken, I proceeded to speak myself; and knowing, as I thought I did, the feeling of those present at the meeting, and knowing, or believing, at any rate, that they sympathized very strongly with the French half-breeds, as being acquainted with them, and many of them near relations, I was not at all surprised at the sympathy existing between them; and knowing that, I believed it to be quite useless to expect the meeting to declare against them so far as to fight against them, and I formulated a resolution.

Q. You formulated a resolution? A. Yes, I did.

Q. What did the prisoner do with regard to that? Did you speak in the interests of any particular course of action? A. I did.

Q. What was the course of action? A. I spoke in this way: I warned those present at the meeting that this was not a question between the French half-breeds and the North-West Mounted Police merely, but between the rebels—I called them rebels—and the Dominion of Canada; and I told them what I thought some of them

there might not know, that the Dominion of Canada had a very strong armed force that they could pour into the country in a very short time, if the Mounted Police were not able to cope with the rebellion; and even if it were so that the rebels got the better of the Dominion first, the whole power of the British Empire was behind it. After I had done so, others spoke, and one man got up and said: Well, gentlemen, we want to fight; and another did so, and it became general talk all over the church then. At that point Mr. Scott left the meeting, and was not there when the resolution was carried.

Q. At a point where there was a general talk, that they did not want to bear arms? A. That is the point at which he left the meeting, so that he did not hear the resolution carried at all.

Cross-examined by Mr. MacIsaac:

Q. You say that the Rev. Mr. Matheson had directions from Major Crozier to do certain things at that meeting? A. Yes, I said so.

Q. And get the English half-breeds to remain neutral was one of those directions? A. I did not say so.

Q. But that is what they did though, at that meeting wasn't it? A. Yes.

Q. Didn't they state that his directions were to do that? A. He did not state so to me.

Q. Didn't Col. Irvine speak to you afterwards in approval of the fact that the French-English half-breeds had been kept neutral, saying it was the best that could be done under the circumstances? A. I went down and saw Col. Irvine as soon as he arrived at Prince Albert, I took a copy of the minute of the meeting, and I submitted it to him along with the answer which by that time I had got from Louis Riel to these resolutions, and he approved of the course I had taken.

Q. You were a party to this matter of their remaining neutral, you were living amongst them? A. Yes.

Q. Don't you consider you had authority for doing that? A. From whom?

Q. Through Mr. Matheson? A. For doing which, seeing Col. Irvine?

Q. No, with them joining in a resolution of neutrality? A. I don't understand your question at all.

Q. Well, when you joined in the resolutions, when you saw that neutrality was the best thing that could be done, didn't you know that that expression was out of order? Didn't you know that any intention of neutrality was out of order? A. Certainly, I did.

Q. Now weren't you fortified in your mind by the fact that Mr. Matheson had stated that he was instructed to bring that about? A. Certainly not. Mr. Matheson never said so to me as far as I recollect.

Q. He might have said so? A. Well, I forgot if he did. Mr. Matheson told me that he had been asked to come down by Major Crozier, and hold that and another meeting which I know nothing about personally, to ascertain the minds of the inhabitants and in the interests of peace. I recollect the words very well.

Q. Now you, by whatever principle actuated, joined with them in that expression? A. I did.

Q. That neutral position? A. I did.

Q. Now your settlements along there are in the direct route from Batoche to Prince Albert, are they not? A. In part they are so, and in part they are not.

Q. Don't all the trails join before they reach? A. Well they all join, but going direct towards Prince Albert you go through only part of our district.

Q. Taking the Ridge, don't all the trails from Carlton, Batoche and Duck Lake join before they get to the Ridge? A. I understand they do. I have not been over them lately.

Q. Isn't it a fact that the people were greatly alarmed, in case of an Indian rising which they feared? Didn't they expect their position would be very dangerous? A. Yes.

Q. They wished also to be notified if possible beforehand by their compatriots, their relatives, the French people, if there was any danger of an Indian uprising, did they not? A. I am not aware of that fact?

Q. You did not hear that expressed? A. No.

Q. Aren't you aware of the fact that he expected they expected in some way to be notified if there was an Indian outbreak? A. I am not aware of the fact at all.

Q. If they desired? A. I am not aware of the fact.

Q. Now, after this meeting of the 22nd March, you communicated with the French council yourself, did you not? A. Yes, at the request of the meeting, I was the secretary.

Q. It was done in the interests of peace, was it not, as you thought? A. Yes.

Q. It was done also as part of the instructions to Mr. Matheson, was it not? A. Well, the meeting instructed me as secretary and I carried out their instructions.

Q. Didn't Mr. Matheson state that he was directed by the authorities to do this? A. Well, I have just told you a little ago what he said to me, and you told me that he would tell you his instructions himself, so I refer you to them.

Q. Have you got a copy of the letter you wrote to Riel? A. Yes.

Q. Here? A. Yes.

Q. Please produce it? (Witness produces this, and it is marked as an exhibit "A," put in by defence, letter dated 22nd March, and here read.)

Q. It was on the 22nd March despatched to Riel and the council? A. No; it was sent on the 23rd.

Q. Did you get an answer to that? A. I did.

Q. Will you produce it? A. I have the original answer from Riel, and I have a copy.

Q. Have you compared the copy? A. I have the original. (Witness here produces the original which is marked exhibit "B," put in by defence, dated St. Anthony, 23rd March, 1885—Letter here read.)

Q. When did you receive that? A. I received it on Tuesday, 24th.

Q. Was it read to any meeting at all, after that? A. No.

Q. Was it read to anybody else at your house, settlers? A. Yes.

Q. I suppose you, as secretary of the meeting, made it pretty generally known that you had received the answer? A. Yes.

Q. Now, at that meeting you spoke of, Mr. Scott spoke first, didn't he? A. He did.

Q. It was just merely a discussion—Mr. Matheson was there and eleven others were there; from this speech was there any intention on his part to stir up the people? A. I can't say as to that. I could not speak for his intention at all.

Q. But the effect of his speech was merely that he thought it would be better for the volunteers to lay down their arms? A. Yes.

Q. You were afterwards captain of the volunteers there, were you not? A. I was.

Q. It was the same sort of volunteers then that went to Carlton? A. Well, we thought we were better.

Q. Were you volunteers in a legal sense at all? A. I can't tell you what is a legal sense in this country.

Q. Were you authorized to raise a corps of volunteers? A. I was not.

Q. You had no authority whatever? A. No.

Q. Did Captain Moore have any such authority, as far as you know? A. I can't tell.

Q. Did he, as far as you know? A. I can't tell, I don't know anything about it.

Q. You afterwards were captain of a corps of volunteers? A. I was.

Q. No. 4, and that was No. 1? A. No. 3, I was.

Q. No. 1 Captain Moore was captain of? A. Yes.

Q. You were organized without any legal authority? You don't know whether you had any standing as legal volunteers or not? A. No, I don't know. I did not enrol myself until the 31st day of March, when the commissioner issued a proclamation calling on all men then in town between the ages of sixteen and sixty to enrol.

I remained out of it with the knowledge and sanction of Commissioner Irvine up till then, because he said that I could perhaps do more good by keeping the half-breeds in my district quiet, and it was better for me not to join.

Q. And by keeping them quiet, you might keep them neutral and from going over? A. Yes.

Q. You felt that living amongst those English half-breeds it was a great thing to keep them neutral; that there was great danger to yourselves and your properties in case you could not? A. Certainly, I did think so.

Q. Now, didn't the fact of volunteers going from Prince Albert to Fort Carlton very materially endanger your position there amongst those? A. I thought it did. I was against the movement. I had no authority. It was only my own personal feelings.

Q. As far as you know, you were against this illegal organization of volunteers? A. No, that was a different thing. I thought they made a mistake going to Carlton.

Q. What effect would that have upon the Indians and French—that state of affairs? A. I cannot say.

Q. Wasn't it anticipated to have the effect of bringing them all down from Prince Albert? A. I have no means of knowing that at all.

Q. When those volunteers left Prince Albert, isn't it a fact they took almost all the arms away and left Prince Albert and the country almost defenceless? A. They took the greater part of them, I understand.

Q. Now, might not Mr. Scott's remark with regard to the volunteers have referred to home protection? A. I could not imagine that it did. He wished the volunteers to lay down their arms, and how that could lead to home protection I don't see at all.

Q. They had gone away to Fort Carlton? A. Part of them had, but not the whole of them.

Q. Almost all that had arms did? A. But new men were being enrolled every day, and quite a few were there when I went down.

Q. How were they armed? A. Some had shot guns.

Q. Some had clubs? A. No, we did not descend to clubs.

Q. Most of them had nothing but shot-guns, wasn't it the case? A. The majority of them had only shot-guns; yes.

Q. Yours was one of the companies that were out every other night, all night, every man? A. Yes.

Q. Will you undertake to say that everybody knew that on the 22nd March, that the French half-breeds were in arms; you had heard about the pillaging of stores, had you not? A. Yes.

Q. Wasn't that all you heard? A. I also know, as I stated before, that the volunteers had gone to Carlton in consequence of them rising.

Q. All that you really knew at the time was that those stores had been pillaged, was it not? A. And prisoners taken.

Q. You heard that? A. Yes, I don't know yet that there was anything else—to know of anything.

Q. You don't know that the whole country about you all that time knew as much even as you did about the state of affairs in the French settlement? A. I did not say it was impossible that I could have seen and communicate with every individual in the district, but everyone that I did see knew as well as I did.

Q. Now, at that St. Catharine's meeting, Mr. Scott spoke first, did he not? A. I could not say that he did. No, the chairman spoke first.

Q. But then he spoke before you did? A. He did.

Q. And then he went out? A. Yes, he went out after I had spoken.

Q. You would be sure about that? A. Yes; I spoke to him when he was going out. I said that he had better remain and see the result, and he said he would not remain.

Q. Did Mr. Patterson say anything at that meeting? I don't recollect that he spoke publicly. He was present and he signed the minute as I read his name out.

Q. Now, weren't Mr. Matheson's instructions as follows: Although the people worked with the French in constitutional agitation, now that they had taken up arms they, the French, could not expect them to support them in arms, as to which they would remain neutral. Weren't those the instructions Mr. Matheson communicated to the meeting? A. I don't recollect.

Q. They might have been? A. I am almost certain that he spoke to that effect.

Q. He, speaking to the people, told them those instructions were in this wise: Although they worked with the French in constitutional agitation, now that they had taken up arms they, the French, could not expect them to support them in arms, as to which they would remain neutral. From all that you recollect, that might be just what he said? A. As I have said, it was to that effect; it is impossible to remember the exact words.

Q. He stated that those were authoritatively given as his instructions, did he not? A. No, I could not say that. As I remember it, he was speaking his own opinion at the time.

Q. You, already, in your examination-in-chief, said that he was sent by Major Crozier? A. Yes, but whether he was sent to say that or not, I can't tell. I know what he said to me outside the church.

Q. Didn't you understand he was speaking with authority? A. No; it might or it might not be. I don't suppose it passed through my mind as to whether it was or not. I took it as his own views, and they coincided with mine.

Q. You stated that you knew the position of neutrality was blameable, but yet was the best that could be done? A. Yes.

Q. Now, you won't state that Mr. Matheson, who was authorized, who was directed by the authorities to go there and take these steps—you won't state that he said that he was authorized by the authorities to bring this matter of neutrality about? A. No; I can't say that.

Q. It might have been the case, however? A. Yes, for all I know to the contrary.

Q. Now, these resolutions that were passed there, according to what Mr. Matheson said, were to be returned to Carlton, were they not, the originals? A. No; Mr. Matheson did not give any instructions to that effect; that was done by the meeting.

Q. Who proposed it? A. I proposed it myself; it is part of the resolution.

Q. Now, isn't it a fact that Mr. Scott advocated the protecting of that Prince Albert country, and your country? A. At that meeting?

Q. Yes? A. I am not aware of that fact.

Q. He may have done so? A. I don't recollect it.

Q. Didn't Mr. Matheson state that Andrew Patterson was with him to return at once to Carlton, with a minute of what was done there? A. Yes, that is quite right.

Q. To the authorities at Carlton? A. Well, I understood it was to the authorities; there was nobody else to return to; and in point of fact he did return with them.

Q. Who were they directed to? Who did you direct the parcel to? A. To Major Crozier.

Q. As far as you know, he took them back to Major Crozier? A. Yes.

Q. And you stated to us that when you told Col. Irvine afterwards who was the highest constituted authority in that district, as far as you knew, and superseded Major Crozier, you stated to him the course that had been taken, and he approved of it? A. He approved of my individual action. I was only justifying myself.

Q. But you moved the motion? A. He approved of it this far, that he thought I had done the best that could be done under the circumstances.

By Mr. Oster:

Q. When the document you have read, a copy of which was sent to the French—do I understand you to say that at the same time a copy was sent up to Major Crozier? A. Yes, by a separate messenger.

Q. So that of that document that you have read here, a copy was sent to Major Crozier as well as to the rebels in arms? A. Yes. I got an acknowledgment from Major Crozier, a copy of which I have in my pocket.

By Mr. MacIise:

Q. Will you produce that? (Witness produces copy, which is read by him and marked exhibit "C," for the defence.)

THOMAS MCKAY sworn:—

Examined by Mr. Scott:

Q. You live at Prince Albert? A. Yes.

Q. Where were you on the night of the 20th March? A. Prince Albert.

Q. On the night? A. At Carlton.

Q. Where did you go, or did you go any other place that night? A. To Batoche.

Q. Where to at Batoche? A. The council room, Riel's council.

Q. Were you alone? A. I went with Mr. Mitchell.

Q. For what purpose? A. I went to see the rebels, who had broken out there, to see if I could induce them to stop the movement and not go any further.

Q. Whom did you see in the room there? Did you see Riel? A. I saw Riel and a number of his council.

Q. Anyone else? A. Well, there was quite a number of French half-breeds there.

Q. Where was the council room? A. I don't know whose house. It was near about the church which was burnt down. Since then I don't know who owned the house.

Q. Was it on the ground floor? A. Yes.

Q. Did Mitchell remain there? A. Mitchell was up and down stairs.

Q. Do you know of anyone else being in the house that night beside those you saw there? A. There were several people up stairs.

Q. Do you know any of those who were up stairs? A. I saw some of them come down, I recollect some of them that came down stairs.

Q. Do you know of anyone else being there whom you did not see? A. The prisoner was there—I recognized his voice. I did not see him, but I recognized his voice. He was up stairs and came down and passed through the room. I did not see him. I heard him speak.

Q. And I suppose there can be no doubt about its being him? A. I believe it was him.

Q. Who were up stairs at the time you heard his voice there, up there any portion of the time? A. Mr. Mitchell was up there at the time.

Q. Anyone else? A. I don't know. There were quite a lot up and down stairs.

Q. Did Riel remain in the council room all the time? A. No, he was up and down. He said there was a committee meeting going on up stairs, and he left the ground floor and went up stairs.

Q. Did he go up there at the time the prisoner was there? A. Yes.

Q. He went up there saying it was a committee meeting? A. Yes. He told me several times that I was disturbing the committee meeting, I was speaking too loud.

Q. What was the state of the half-breeds in that neighborhood at the time? A. Most of them gathered around Batoche were armed and taking prisoners, and they were scattered all along the road, and carting over goods from Walters & Baker's store to some of the stores on the side of the river.

Q. That was the state of the country at that time? A. Yes.

By Mr. MacIise:

Q. Who directed you to go to Batoche? A. Nobody directed me.

Q. Who directed you to go there in the interests—? A. Mr. Kelly drove us there.

Q. At whose instance did you go? A. When I left Prince Albert I told the people there I would go over immediately from Carlton; when I came to Carlton, Mitchell was there, and he asked me to go over with him, and I suggested it to Major Crozier, and he told me very well, to go over.

Q. You went over in the interests of bringing about peace? A. I tried to point out the wrong those people were doing, and the danger they were drifting in, and I told them so in the council room.

Q. You were in the council room in the same building as Mr. Scott? A. Yes, in the ground floor.

Q. You heard his voice you say? A. Yes.

Q. You don't know who he was talking to? A. No.

Q. It might have been to Mr. Mitchell? A. I thought at the time he was talking to Mr. Mitchell. It was something about that it was a cold morning, and he merely made the remark it was cold. I am not sure it was Mr. Mitchell, or that he had got there that morning.

Q. Do you not know as matter of fact Mr. Scott cannot talk Cree? A. I don't know whether he can or not.

Q. What do you think about it? A. I don't know anything about it.

Q. You knew Mr. Scott's deceased wife did you not? A. Yes.

Q. And you know Mrs. Thompson is his mother-in-law? A. Yes.

Q. They are half-breeds are they not? A. Yes.

Q. They were people of the Saskatchewan weren't they and not from Manitoba? A. Yes, they were from the Saskatchewan.

Q. They were original natives of the country, and claimed to have the rights of half-breeds of Manitoba? A. They claimed the same as I myself; they were entitled to half-breed scrip.

Q. Now would it be a surprise to you to learn that Mr. Scott was there upon the same errand as you were, in a different manner? As far as you know he may have been? A. I don't know at all what he was there for.

Q. When these volunteers went up to Carlton you were with them? A. Yes.

Q. You were one of the officers of the company were you not? A. No.

Q. You were a volunteer? A. Yes.

Q. Do you remember a meeting held on the 17th March, or 18th or 19th, and Major Crozier there early in the morning brought down news of the volunteers; do you remember the meeting held in the flats there the afternoon of the 17th? A. I heard of it, but I was not there.

Q. Do you know anybody who was at that meeting? A. I heard several people were there.

Q. It lasted most of the afternoon, did it not? A. I believe so, some time.

Q. Did you see Capt. Moore after that meeting? A. Yes, I saw him before and after.

Q. Did he tell you he had been at that meeting? A. I don't know whether he did or not. I understood he was there.

Q. Now you have taken an active part in having Mr. Scott arrested under this charge have you not? A. No, I have not. I have taken no part in the matter at all.

Q. Isn't it a fact at Fort Carlton you tried to get Andrew Peterson to lay an information against him? A. No, I did not. I never did anything of the kind. I never tried to induce anybody to lay an information against Scott or anybody else.

Q. Didn't you, afterwards, in presence of Col. Irvine at Prince Albert, ask Andrew Peterson to lay an information against Thomas Scott? A. I never did.

Q. Didn't you tell Andrew Peterson you would have him arrested if he did not? A. No, I never did.

Q. You did not? A. No.

Q. You know that Mr. Scott is a very extensive farmer at the Ridge? A. Yes.

Q. You know he is one of the most successful farmers in the country? A. I believe he is.

Q. You know it was by the officers of the North-West Mounted Police and through their orders they were completely made waste during the rebellion? A. I heard his cattle and hay. I don't know anything personal about it, it was merely rumor.

Q. Had you anything to do with suggesting to bring him up? A. No, I never had anything to do with it at all.

Q. You swear positively you did not ask Andrew Peterson, nor try to get him to swear an information against this man Thomas Scott? A. I tell you that I did not do it.

Q. You never had any conversation with Mr. Peterson about it? A. No, Mr. Peterson told me when he came up with the resolutions. He handed them to me, and I took them over to Major Crozier, and he told me Scott was very active in trying to pass a resolution suggesting that the volunteers should lay down their arms and that sort of thing.

Q. Well, you are well acquainted with the Rev. Mr. Matheson, are you not? A. Yes.

Q. He went up to Fort Carlton on Sunday the 22nd, he was there to hold service was he not? A. I saw him there on Sunday the 22nd.

Q. You went to him early in the morning did you not? A. Yes.

Q. What took place between you? A. I asked him to go down to St. Catharines.

Q. At whose instance did you do this? A. I suggested it to Major Crozier and he asked me to do it.

Q. What did you do? A. I asked Mr. Matheson to go down and catch the people while they were having service at the churches and ask them to declare themselves, find out what part they intended to take in the matter, and I told him that Mr. Riel told his people they had Mr. Scott there and some other delegates, and they could count on the support of the English half-breeds, and I asked him to go down and call a meeting and ask them to declare themselves. I said I don't suppose you can get them to declare in favor of the Government, but if you can tell they won't support them in this rising of arms, it will be so much gained, it will weaken his hands.

Q. It was in effect, to take neither side? A. I simply asked him to find out what they would do in the matter, and as I told him, I did not suppose he would get them to declare themselves in favor of the Government, but if they said they would remain neutral, that would be so much gained.

Q. And you desired him to go up instead of holding service, as he had come up there with the intention of doing? A. Yes, I suggested it to Major Crozier, and he thought it was a very good thing.

By Mr. Scott:

Q. You were in command of the scouts? A. Yes.

Q. You derived authority from the commissioner of the police? A. Yes.

Q. Did you give them any instructions in regard to Mr. Scott's place? A. No.

Q. You have already told us that Scott was a large farmer there. Now, don't you know as matter of fact he is surrounded by a large settlement almost entirely composed of English half-breeds? A. Yes, the majority of the people there are English half-breeds.

Q. Do you know as a fact too that he has a great deal of influence over those men too? A. I don't know that he has.

Q. You have some influence over them? A. I don't know that I have. They often come to me and asked me for advice, but very often they don't follow it, so I don't infer from that my advice has much influence with any of them.

Q. Did the Government take any of his cattle by force? A. No.

Q. You were asked about the 23rd March to sign a petition by William Miller, were you not? A. No.

Q. Did you see Mr. William Miller at all on the 23rd? A. No.

Q. Did he ask you to sign any paper? A. No.

Q. He did not? A. No, he did not.

Q. Did he ask you on the 24th to sign any paper? A. No, not that I am aware of.

Q. Did he ask you about that time, before or after, within the space of a week before, or a month before, or a month afterwards, to sign any paper? A. No, not to sign any paper. He showed me a paper, a resolution that had been passed on the 25th—sometime about noon of the 25th.

Q. And what did he want of you? A. He merely stated that they had a meeting last night, and the resolution then passed—something about the laying down of arms. I don't know exactly what it was. I did not pay very much attention to it. At the time I was driving with Mr. Miller to Carlton.

Q. Did you make use of the expression then, to hell with the French? A. No, I told him he could shove his resolution up his stern.

Q. Did you say to hell with the French? A. No, I did not.

By Mr. Scott :

Q. Is the prisoner's wife alive? A. No, she is dead.

Q. Has he any children? A. They had a child. I think he is dead. I am not positive.

Q. How long is his wife dead? A. I think over a year ago. She was in very poor health, and I think the child is dead.

By Mr. MacIise :

Q. His mother-in-law lives with him, and always has? A. I believe she lives with him. I have seen her there.

A. L. LUNEN sworn :—

Examined by Mr. Osler :

Q. You have had experience in a bank, I believe? A. Yes.

Q. For some years? A. Yes.

Q. What was your employment in a bank? A. Well, I have had different posts.

Q. Have you had occasion to examine handwriting and signatures? A. Yes.

Q. Now, that signature to Exhibit No. 6 is said to be Thomas Scott's, and Exhibit No. 7 is said to be Thomas Scott's, and the signature to No. 8 is said to be Thomas Scott's, and the signature on No. 5, the post office return, is claimed by the Crown to be Thomas Scott's, and two signatures on No. 4 said to be Thomas Scott's, signature on 5 Thomas Scott's, and the signature on the paper attached to it, the declaration, said to be Thomas Scott's. Have you examined that writing and compared with the signature and writing in Exhibit No. 1, and have you formed any opinion upon the writing in Exhibit No. 1? A. I think the writing in all these papers is the same.

Q. Do you say the signature, Thomas Scott, is the same as the signature in the other papers, Thomas Scott? A. Yes.

Q. By the same man? A. Yes, I think so.

By Mr. Clarke :

Q. You have examined that paper, signed "Thomas Scott" and witnessed by somebody else, No. 6? A. Yes.

Q. Well, what do you say of that paper? A. I think the handwriting is the same as the others.

Q. You think it is the same? A. Yes.

Q. Now, you are brought here I presume, as an expert? A. I don't know.

Q. Will you look at that paper now, No. 6, and say on your oath is the whole of that writing not the same as the words, "witness, Joseph Thompson"? A. They seem very much alike. In fact they are very much alike in both cases.

By the Court :

Q. The whole writing of No. 6 is like that No. 1, did I understand you to say?
A. Yes, there is very great similarity between the writing.

By Mr. Clarke :

Q. Will you compare the signatures on those three papers which we now put in and file (exhibits "D" "E" and "F") and others, with the signatures of Thomas Scott, that you have been trying to identify, and say which of them are Thomas Scott's signatures? A. I would not take those "D" to be Mr. Scott's. I don't think those are his. "E" and "F" might be his.

Q. Now, looking at this other paper "G," point out the signatures that you find there of his, Thomas Scott's, handwriting? A. 4, 5 and 6, I would take to be the same writing as this No. 1 paper, and the one in the bond and declaration. The other might be and might not be. It all depends on what sort of pen you write with.

Q. Whose do you think that ("H") is? A. This writing resembles No. 6. It is similar to the other writings.

Q. That No. 6 is like Thomas Scott's signature, or which do I understand? A. I don't know whether either of them are Thomas Scott's signature.

Q. What do you mean? Do you mean that those two writings are the same? A. These two, 6 and "H" are the same, and these two and all the others resemble each other very much.

Mr. Osler.—That is the case for the Crown, your Honors.

Mr. Clarke.—I would submit to your Honors, whether you think there is a case to go to the jury in this matter. My opinion is that there is not.

Court.—Why?

Mr. Clarke.—I submit that there is no case made out by the Crown with which to go to the jury in this matter, and for the purpose of expediting business and preventing any more loss of time, I think it might be as well to have the opinion of the court on that matter, so that the jury may be directed accordingly.

Court.—Well, what are the grounds?

Mr. Clarke.—The grounds are that the prisoner stands charged with treason-felony, and the only thing that has been produced against the prisoner is a letter which was written, supposed to be written by him, and supposed to be sent by him to the parties connected with an illegal outbreak, but at that time no proof of being in actual rebellion. Every uprising is not a rebellion. Every mob is not a rebellion. The stealing of the goods in a store by a number of armed men does not constitute rebellion.

Court.—*Not per se.*

Mr. Clarke.—The taking of goods on a highway does not constitute rebellion. Now, we have no act of rebellion proved here that I can see, in which or with which the prisoner is in the most remote degree identified. I submit that there is no proof that that letter that is brought up, and on which the charges have been rung no less than three or four places in the indictment—that there is absolutely no proof that that is the prisoner's writing at all or how it came there. It is true we have proof that some of the Crown witnesses were in direct communication with people who were charged with that rebellion.

Court.—Well, you say that the letter is not proved as the prisoner's, and that there is no other evidence?

Mr. Clarke.—There was no evidence whatever to show that the prisoner had any notice that there was such a thing as rebellion; and there really was not until after the attack upon the police at Duck Lake, and that with reference to any culpability or criminality, if you will, on the part of the prisoner in trying to make certain parties, a very large, a very influential part of the community, remain neutral, I submit the authorities were those who gave the cue and those who sent their own officers and their own emissaries for that very purpose.

Under those circumstances I submit to your Honor that I do not believe there is a case to go to the jury upon which any man should be put on trial and his liberty imperilled.

Mr. Osler.—I submit to your Honors that there is not only a case but a very strong case. On the question of the proof of the letter, I submit that there is ample

proof of original writings, that cannot be questioned. There is evidence by an expert of the comparison, but in all such cases there is not only the evidence of the expert where original writings are produced, but there is the right of the jury to take the papers that are brought in as originals and proved to be originals, and compare them with the writing charged to be the prisoner's. They have also to consider the circumstances under which the letter is found, and the circumstances under which the prisoner was placed, and say is it likely that he was the writer of that letter, with the evidence that there is of comparison here, and their own means of looking at the various papers, and saying whether or not it is original. Upon the question then of handwriting, that of course must go to the jury. If the jury after hearing Mr. Lunen's evidence and after examining the undoubted originals, original writings of the prisoner with the paper alleged to be his, that it is not his, why then of course that eliminates that branch of the case, but it must be eliminated by the finding of the jury, it must be passed upon by them as matter of fact. That letter alone then, brought home to the prisoner is enough for the jury to pass upon and it is not for the court to rule—it must be for the jury to say whether that letter is not in the words of the indictment aiding, consulting, or aiding, comforting, assisting and maintaining. So that, standing on the writing alone, I submit there is an ample case; apart from that, of course there is a very serious case made by the prisoner—against the prisoner, the particulars of which I need not go into, as my learned friend has not, but as far as the Crown is concerned, we can only take the responsibility of saying that it is a case we think that ought to be passed on by the jury.

Court.—I don't think that I have the power of stopping a case. I have always held that opinion that where a jury are empannelled I cannot stop a case and they have rights, they are a part and parcel of the court. I may simply give my opinion upon the evidence, but I don't think I would stop it. I see no reason to alter that opinion and I have held it for the last six or seven years, and I shall ask you, Mr. Clarke for your defence. My reason for holding as I do, is that I have not the power, the right to order a discharge.

Mr. Clarke.—I submit to your lordship that you have. It is not a question of law, as matter of law, there has not been any legal evidence adduced against the prisoner.

Court.—There is this evidence—taking Mr. Craig's alone that the rebellion was generally reported as having broken out.

Mr. Clarke.—It was reported generally to him; he happened to have papers in his pocket from the rebels which he read in the dock. Now, in what way are addresses to the jury regulated in this court? I may be getting into a bad fix without knowing it.

Mr. Osler.—I will tell you how I understand them. The ordinary practice under the statute which is in force here in our courts in Ontario, is for the prisoner's counsel first to call his evidence and then speak generally in the case, he can however open his case before giving evidence; if he opens his case before giving evidence, then he is confined in his second speech to summing up his own evidence; and that statute is in force here.

Court.—The usual course that has been adopted has been to call the witnesses first without any opening, and then take a general opening, with the Crown's right to reply.

Mr. Osler.—The inconvenience that I have found in defence is that you cripple your reply by your being confined to summing up your evidence, but in the Riel case they opened and closed that way.

Court.—Do you intend to call witnesses, Mr. Clarke?

Mr. Clarke.—Oh, yes, I intend to call witnesses. Gentlemen of the jury, my learned friend, Mr. Osler, counsel for the Crown, opened his case and stated what he charged the prisoner with, and what he intended to prove against the prisoner. The indictment was read to you, and you heard all about that. Boiled down, it amounts to this, that there was a great deal of dissatisfaction and excitement in that part of the country, principally between the half-breed population, whether French or Eng-

lish, they were dissatisfied. Now, in submitting to you the proposition with reference to the dissatisfaction, there were certain things that were alleged by the learned counsel for the Crown that we cannot afford—we cannot, in the performance of our duty, allow to pass unchallenged. To do so would be to admit that the people of this country were, not only disloyal, the whole native population and a great deal of the population that is not native to this country, that they were disloyal in the extreme, that without having any grievances they resorted to rebellion. Now, that is the proposition that the learned counsel submitted to you, and when he said that he went on to show you examples of what should be done, of what constituted loyalty, and what constituted disloyalty. He went on to say that it was the duty of the people to wait and bear and submit until time should remedy all the evils that they complain of, and he told you that history taught you so. Well, if it be the case, the history that my learned friend has read and the history that I have read, contradict each other in a most extraordinary manner. From the first moment of the dawn of history, the struggles of the people against their oppressors filled every page, and the achievements of the suffering people rising in their might and crushing their tyrants are the brightest pages with which history is gilded and handed down as an example of what our forefathers have done, that we in time should do, should tyranny ever dare to lift its ugly head in our midst. That is what history has taught me; but the learned counsel says that the subject must bear patiently and continue to bear. When Nero sat on the highest building in Rome while the whole capital of the world was being burnt, it was necessary that his slaves should patiently submit and allow their monarch to enjoy his little pastime, and not say a word?

When the people of England oppressed by their tyrants and by their kings, and the old barons of Runnymede drew from the king the great charter, the charter of the people's rights, we are to be told that the barons should have bowed low and in the most modest key say to the king, we submit to everything, and we will make our serfs submit to us, or we will crush them under our heels. Did history ever tell you so? or does not all history contradict the assertion? When your forefathers in England, and Ireland and Scotland and Canada—when they were oppressed, did they submit tamely like slaves?—and if they had submitted tamely like slaves, like slaves they deserved to suffer that the chain should gall them still, and that round their necks should be the yoke of slavery and of serfdom to the end of all time. No, gentlemen, it is no portion of the duty of a loyal man to submit to tyranny on the part of the authorities, but it is the grossest, the veriest tyranny, the veriest treason to the rights of the people, that any Crown or any Government should dare to oppress those who have put themselves in their power, and to refuse them redress. This was exactly the position that these unfortunate half-breeds were in in the North-West British Canada, and we are told they have no grievance, none whatever.

Let us see if they had any grievance. The Crown alleges they did not. We take issue with the Crown, and we will show that they had grievances. Then the question will be, did they resort to the proper course to try and have those grievances redressed? By the agreement entered into between Sir George E. Cartier and the Hon. William Macdougall, representing Canada, in London on the 8th February, 1863, between the delegates from Canada, for acquiring the North-West Territory, and the Hudson Bay Company, these are the conditions: That Canada should undertake the duties and the obligations of government, and legislate in respect of those territories; second, that the rights of any company, corporation or individual within the territories should be respected, and that provision should be made for that purpose by placing those rights under the protection of courts of competent jurisdiction; that is the condition upon which Canada obtained this vast country, and the condition made by those who were handing over, as it were, the rights of the people of the country to their new masters; that they were to establish courts of competent jurisdiction to guard and secure to the people their rights as their birthrights in this country. Now, gentlemen of the jury, who makes that promise? It is solemnly made by the representatives of Canada; it is solemnly entered into by two ministers of the Crown; by two of Her Majesty's advisers. It was a contract—a contract

entered into solemnly on behalf of the government or the Crown, and it was for the purpose of securing the rights of the people. Now, gentlemen of the jury, what were those rights? The rights that were granted under the Manitoba Act, and under the other conditions that were made with reference to the transfer of this country, that the Indians should be properly and honorably dealt with by the government of this country; third, that the claims of the Indian tribes to compensation for the lands required for the purposes of settlement should be considered and settled in conformity with the equitable principles which have uniformly governed the British Crown in its dealings with the aborigines. These were the two special conditions to which I intended to refer, to show whether these people had grievances or not. Among the reasons why these things became necessary, more necessary than ever, and why they were sanctified, so to speak, by the Manitoba Act in reference to a small portion of the North-West Territory, was because, although that contract had been entered into by the Government, still the people of Red River settlement, before the completion of the contract, discovered that they were going to be sold and transferred, like chattels or live stock, along with the land that themselves and their forefathers had occupied for sixty years, and that no attention whatever was going to be paid to their rights, nor were they to be secured to them by any legal means; that they were to wait, in fact, until it agreed with the convenience of the government of a new country, to them strangers, when and where, and upon what condition these rights were to be secured to them, they appealed to this clause of the arrangement. Where are these courts of competent jurisdiction? The Hudson Bay Company said: We will accept no such court of competent jurisdiction to settle our claims, because we have not sufficient confidence—we have not sufficient confidence in the courts that you will establish; but the people of the country were satisfied; so long as courts of competent jurisdiction are established to defend their rights and secure them, they were satisfied. But no such court was about being established; the country was about being handed over, the governor and his ready-made council of seven were sent up from Ottawa to govern the country that had not yet been handed over to the British Crown by the holders of it under the British Crown. Mr. McDougall and a ready-made government were sent up from Ottawa before the Queen's proclamation had even issued, or before a time had been fixed for its issuing, to take possession of the country. What was the result then? Why, gentlemen, the result was that this same Louis Riel—then a young man in the hey-day of his youth, and just "new from college"—he came there, and he took the lead among his countrymen. He demanded that their rights should be secured; and when that demand was refused, and when they talked of sending an armed force to take possession of the country, the Hudson Bay Company's post was taken possession of, the Governor in Council of Assiniboia who had been dormant or sleeping during all this time were overthrown, and the result was the rebel government, as it was called, was established for the purpose of securing the rights of the people. Now, gentlemen of the jury, let us look whether there was a rebel government there or not? Who did they rebel against? What right had Canada to take possession then? As much right as you or I would have to go down and take possession of a portion of Dakota territory? The Crown had not given her any authority to take possession. The Queen's proclamation had not been issued. But the people who were guilty of a crime against the constitutional law of the nation were the Government of Canada, who dared to put their feet on ground that did not belong to them, and sent a Governor in Council to govern over that which had never been ceded to them. There the half-breeds were right, and the French half-breeds and the English half-breeds went hand-in-hand together, and they said: You may sell the land, but you shall never sell slaves along with the land, and they would have been less British subjects had they not done it, and they would be unworthy of holding the position of free men in a free nation had they allowed themselves to be sold with this soil without raising a voice in expostulation against it, and called upon the Queen to protect them. They did call upon the Queen and she gave them protection, and she told the Dominion of Canada, you shall not send a solitary stranger into the North-West Territory, nor will

we allow a solitary stranger to go there until the vested rights of the people shall first have been secured to them by Act of Parliament. Hence the Manitoba Act. Then it was that Queen Victoria, speaking from the Throne, told her servants in Canada, you must not dare infringe upon the rights of the weakest of my subjects away in that far north land that is shut out from the world during six months of the year, though to them as dear as those that surround home in the old world, and you must not dare to infringe upon their rights; and why do we appeal to our mother sitting upon the Throne? We always feel that we will receive that which the British constitution declares to be the birthright of a British subject. And then the Manitoba Act was passed, and by that Manitoba Act 1,400,000 acres were set apart for children of half-breeds, heads of families, and it was determined that the old settlers should have some claims. Men who came in with Selkirk, men who came in from 1815 to 1820 who travelled down from Churchill where they came in by way of Hudson Bay, good old Scotchmen and women that walked down, and when their mothers—some of those that are being arrested to-day and thrown into gaol, when they left the marks of their devotion to their native land, left them marked on the crisping snow, where their footmarks were imprinted upon that snow marching down there in the depth of winter until they struck the Red River settlement—these are the titles that Scotch half-breeds have to consideration at the hands of the British Crown. They came here to preserve this country to the British Crown, and the British Crown will allow no bastard off-shoot to ever trample on the rights of the people, such people as they; be sure of it. Yes, gentlemen, these men that came in, these men and women that came in from 1815 to 1820, such as the Gunns, and the Sutherlands, and the Bremners, and dozens of others that I might mention, some of whom have only passed away within a few short years, some of them who are living yet, some of those who came into this country when it was a perfect wilderness, who came into it before some of our forefathers were born—these men are still in this country and they see that their children to-day have not been fairly dealt with by those that entered into a secret compact with the Crown of England that they would deal fairly by those people. The Manitoba Act secured to the half-breeds, heads of families and children, secured to them 1,400,000 acres that was to be divided among those children without any loss of time.

How was it done? To-day, in the city of Winnipeg, at the end of fifteen years, after that solemn pledge to honor and faith of a Government that was just coming into existence to take its place among the nations of the earth, that honor that should be as unsullied, as unspotted as the virgin who goes to the altar, that honor was pledged, and fifteen years of peace your Honors have been spent, and the pledge is unredeemed and the half-breeds heads of families are fighting for the rights of their children to-day at Winnipeg, Ottawa and Prince Albert, and here in the capital of this North-West Territory. They have not received their rights yet. How is this? The faith of a Government was pledged that courts of competent jurisdiction should be established, and that these rights would be secured to the people under those courts of competent jurisdiction. Where has the pledge been redeemed? No such court has ever been established, no court of competent jurisdiction has ever been established as a court of claims in which half-breeds could obtain their rights and by which their rights could be protected, but we have proof that there has been something done, we have it printed by and at the order of the Government of Canada. What has been done? We have the proof that the rights of the people, the half-breeds, were being secured to them, in fact that they were told that everything had been done in the most complete manner possible, and here is what they say in reference to that. This (producing it) is the report of the Department of the Interior for last year, 1884, printed by order of Parliament, and laid upon the table during this last Session. This report is printed and it is signed by the deputy of the Minister of the Interior, a certain Mr. Burgess. He says, at page 11:

"The Claims of the Old Settlers.—At the time the offices of deputy head and surveyor general were separated, and Mr. Lindsay Russell was charged with the duties appertaining to the latter position it was provided that he should investigate

and settle the claims to land by virtue of long occupation advanced by old settlers along the North Saskatchewan."

Now, there is a court of competent jurisdiction. One official in the Department of the Interior at Ottawa, at the end of fourteen years is named, during the time he has nothing else to do, to look after this arrangement, and when it was found that Mr. Russell's health did not admit of his visiting the settlements, an Order in Council was passed remitting this portion of his work to the Land Board. Accordingly, early in the year, Mr. Pierce went to Prince Albert (now mark this, gentlemen) Mr. Pierce went to Prince Albert and from there to Battleford and Edmonton and St. Albert, and he made a personal, careful enquiry into all claims of this class, at those places with the result that all, with one or two exceptions at Battleford and Edmonton, have been finally and satisfactorily disposed of, the only claims of old settlers remaining unsettled are at Lac la Biche, Victoria and Battle River. Gentlemen of the jury, that is a public document. That is taken on the floor of the House of Commons in England as an authentic document. It is official. It is published by order of Parliament. It is a report of an employé of the Government of Canada, of the Deputy Minister, and he says to the world in that printed report, printed by order of Parliament, that the old settlers' claims at Battleford and Prince Albert and all these places have been finally and satisfactorily settled during the last year. Gentlemen, is it necessary to contradict this? Is it necessary that I should contradict it? It has been contradicted, and contradicted in a way that will never be forgotten by some hearts that are sorrowing to-day until those hearts shall have ceased to beat. Before the ink was dry in which the report was printed, lying, misleading scandalous report—before the ink was dry the contradiction went back, hurled back to the floor of the House of Commons of Canada and was sent to the whole world in the death cry of those who were being shot down by the outraged people who were being lied into subjection by order of the Parliament in printed reports such as that is. The contradiction went to the world that a satisfactory settlement had been made, when the rifle ball began to claim what had been refused to the settlers' humble petition and demand; and, unfortunately, instead of being the people who wrote and concocted those lies that suffered, it was the young men of this young country whose hearts had to become the breastwork of those who were cheating the people by such statements as those, and meet the consequences. Gentlemen, are you to be told after this these people have no grievances? Why, look at the contradiction. This Government, that for fifteen years had turned a deaf ear to the cries and the petitions, to the meetings and to the resolutions of these people, what did they do? When battle presented itself, then they hurriedly did that which they pledged themselves to do fifteen years ago and never fulfilled. They appointed a court of competent jurisdiction. They appointed three commissioners to come up to the North-West Territory and amid the carnage and roar of battle to settle the claims of the people. How great the falsehood was between that time and this! Up to ten days ago that court of competent jurisdiction of three commissioners had settled 1,587 claims after the battle began and amid the smoke, whereas the Minister tells the world that they were all finally and satisfactorily settled one year ago. Who is to be believed? That statement that went to the world with the seal and stamp, the certificate of being a public document and printed by order of Parliament, or the fact that the commission have already settled nearly 2,000 claims, and they are still settling them?

Now, gentlemen, when we are told that these people had no grievances, I admit that it is but my simple duty to prove to you that they had grievances, that they had very strong grievances, that men who were in the prime of life fifteen years ago, the father of young children, that their sons have grown up to be young men with their families in turn around them, and that the man who was in the prime of life fifteen years ago is now old and grey, and his life nearly worn out, and still the claim that he had to the piece of waste land in the North-West Territory he is still waiting for the adjustment of; and we are told by the representative of the Crown that these people had no grievances!

Now, gentlemen of the jury, having those grievances, what were they justified in doing? They were justified in using every constitutional means that the British law gives to the subject to try and secure, to try and force recognition of their claims. They had the right to do that. The British constitution gives them that right, the right of expressing their grievances, the right of petition, and it is a right that is as sacred to every British subject as is the right to enjoy his life and liberty, and the man, or party of men, who attempted to infringe upon their right is or are guilty of a breach of the law, and that breach has been proclaimed to be such at a time when there was not half the liberty in England that there is now. As long ago as the time of Charles, it was proclaimed that anybody who dared to interfere with the right of meeting, with the right of petition, they were guilty of a high crime and misdemeanor, and some members of Parliament of England because they attempted to do that thing were not only expelled from the House, but they were very near losing their heads on the block, because they dared to interfere with the right of meeting and the right of petition of the people of England. On the 20th October, 1680, in the reign of Charles II. the Commons of England resolved, without any dissenting voice, that it is and hath ever been the undoubted right of the subjects of England to petition the king for the calling and sitting of Parliaments for the redressing of grievances, and it resolved that to traduce such petitioning as a violation of duty and to represent it to His Majesty as tumultuous and seditious is to betray the liberty of the subject, and contributes to the design of subverting the ancient legal constitution of this kingdom, and of introducing arbitrary power. Now, when the learned counsel for the Crown tells you that they had no right to hold meetings or to do that which led up to what unfortunately culminated in a revolution, he is going outside of the law, he is telling you that which cannot be in any way sustained by law, or by usage, or by custom under the British system. We have the right, we have more than that. In the Consolidated Statutes of Canada, provision is made whereby the subjects of Her Majesty in any part of the Dominion have a right to call the public meetings to appoint their chairmen, to appoint their secretary; and to interfere with that meeting, when so organized, is a very high misdemeanor and punishable severely at law by statute. What did these poor people do? It cannot be for a moment supposed that the half-breeds of the Saskatchewan or those around Battleford are acquainted with all the customs and the usages of civilized life, that they are in a position to say just exactly what words they should use and to keep outside of the fangs of the law; what words they should use so as to have the greatest force with those that are acting, or are supposed to be acting for them down at Ottawa. They met, however, gentlemen, they have been meeting for years past, their petitions have gone to Ottawa, their resolutions passed at their meetings have been sent there, no return has been heard, it was worse than a refusal, they were treated with that contempt that galls a man far worse than a direct and positive refusal. You ask a benefit from your friend or from your neighbor, and if he does not deign to give you an answer, but turns his back upon you, do you not feel it ten times more grievous than if he said I won't, and was done with it? That is the way they were treated. Petition after petition went—the thing is notorious, they have appeared in the press, their petitions have been spoken of in the House, on the floor of the House; they had petition upon petition, they had meetings, they passed resolutions, they asked for their rights and why were they not accorded to them? Why were they not accorded to them? Why did they not give them their 240 or 160 acre scrip, and let the vultures who follow around the commissioners eat it up as fast as possible? You know that these poor people no sooner get hold of that scrip than there is a species of vulture who follows on the track of the commissioners, and has it from them in a few short hours for \$30 or \$40, and in some cases for \$25. You know this. Why did they not give it to them at once and let them be done with it? Why did they keep these people in turmoil and in distress all these years? Why did they dare send surveyors to cut off a portion of their lands, so that they might square their own townships? Is it because these people are weak? Is it because they had no representatives in Parliament, that their rights should be trampled upon, and that they should be treated worse than the Government dared treat the Indians,

because there was sufficient in them of their Scotch and French forefathers that they did for years patiently but complainingly bear up against the injustice that was being done them? Patiently but complainingly they bore it all. They bore it from day to day, and from week to week, and from month to month, until fifteen years had rolled around, and still they were as far from a settlement as they were fifteen years ago; and still we are to be told to-day they had no grievances. They had, they called public meetings. The prisoner at the bar here, Scott, was one of the people who attended those meetings, and we are told that he was a white man and that he could not have any grievance at all, he could not have any claim, in other words, simply his wife was a half-breed, his mother-in-law, who is living still, is a half-breed. They both had their half-breed claims, and those half-breed claims by right belonged to him and to his children. What right had they to keep those claims back? Is it the might of right? Because I am the Minister of the Interior or a member of a Government, and a servant of the people, is that the reason why I have a right to trample upon your rights, and to say that, well, when it pleases me you will get it? You have got to patiently wait, and it is, they say, your duty as a subject, to wait until it pleases me to give you that right which the law tells you is yours. Is that the position you take? I think not. I hope the day will never come in Canada, or in any portion of Her Majesty's Dominions, when the people will lie down like slaves and submit to be treated in that manner.

Now, gentlemen of the jury, these people held their meetings. Unfortunately their utterings were treated with contempt. They sent their petitions and no notice was taken of them. They had no representation in Parliament, because you know you people in the North-West Territory here are in a transition state, you are governed by a council, and you are likely to be governed some time yet by a council, and those who are fortunate enough to have the ear of the council may probably be very prosperous in your realm in a worldly way, but, at the same time, it is rather galling to a British subject to feel that the Parliament, that the court that makes and establishes laws for his government, for his direction, laws to which he has to submit—that he has nobody to represent him there, to see whether he is satisfied with the laws that are made or not. That is the position of the North-West Territory. You are told your population is not sufficient. Well, Manitoba had not one-fourth, one-tenth the population that you have now when she had four representatives in Parliament. British Columbia, with her 60,000 all told, including Indians, had a representation of no less than six members in the House of Commons, and three in the Senate, but still, you being the people of the North-West Territory, being only mere white men, mere British subjects, you have no rights whatever, and you have no right to be represented in the Parliament of Canada. If that state of things is to continue, why, gentlemen, I cannot compliment you upon being the citizens of the North-West Territory, and I must say that if I were in this country during the time that these meetings were going on it is more than likely I would have stood to-day alongside of Scott or of any other man, independent man, who stood up and demanded his rights as a Britisher should demand them, at the hands of the Government that he has elected for the purpose of performing their duty and securing rights to the people. Up to that time there was nothing that Scott or you or any of you, gentlemen, had to be afraid of or ashamed of, but rather that you had to be proud of. You had a perfect right to demand, at public meetings, and by petition, all these things; but, unfortunately, the French half-breeds and some of the English half-breeds, seeing that they had no leader in the country, in an unfortunate hour had the tempter come to them in the shape of one or two men who had been primed for that purpose by that man now cast for death up at the police barracks—Louis Riel. They remembered that in 1870, when the Hudson Bay Company and Canada were about to take possession of their rights without giving them any security—that Louis Riel stepped to the front. Now, that first rebellion of Louis Riel, but for the murder of Thomas Scott, that cold-blooded, callous, brutal, unnecessary murder, but for that, there was not an act of Louis Riel and his followers that was not seconded and endorsed by the

Crown, for that secured to them the rights that they had set up and demanded when the Government of Assiniboia was too weak or too contemptible to do it; but Scott was murdered and Louis Riel and Lepine were charged with the murder. They were charged with the murder, and Lepine was put on his trial, and sentenced to death, and Riel would have been the same, but he was too cowardly to await his trial. He left the country, and was declared an outlaw. Which of the two men was the better man? The man who stood his ground? Yes, when the constable was sent to arrest him, the same man who notified Riel to get away notified Lepine, and he said no, I was assured by men of education who were in this country, that in standing out as I did, elected by the people to an office, that the whole thing was legal and constitutional, if I have committed a crime against British law, I am man enough to stand my ground and be punished for that crime by British law, and he did. He stood his ground. He was tried for his life and sentenced to death, and the British Crown, sympathizing with what led up to that unfortunate murder, not only ordered through their representative, Lord Dufferin, that he should not be executed, but his sentence was commuted to imprisonment in the common gaol for two years without hard labor, and he is a free man to-day. Louis Riel was an outlaw. He was so declared. It was declared that he should lose his civil rights in Canada during life, and he went to the United States, and there he became a citizen, it appears. Who cares whether he did or not? It is a matter of the merest indifference to us. In an unfortunate moment those who had passed through the former rebellion, some of their fathers, they spoke about Riel. They said, is it not strange that during fifteen years all the people in Manitoba and the North-West have not been able to do as much with the Parliament of Canada, with the Crown of England, as that man Riel did in six months? We will send for him, and they sent for him. Who? Was it Scott sent for him? Why, gentlemen, some of the witnesses that were in the box to-day sent for him. They subscribed towards his coming. They took part in the meetings. Now, I will show you that at those meetings that took place that Scott appeared as the representative of his half-breed wife and his half-breed mother-in-law, and he demanded the rights that belonged to those members of his family. He had a grievance, and he had a right to be at those meetings. Riel came, and Scott was named on the committee to invite Riel, to make preparation for Riel coming to the country, and the moment Riel came to the country gentlemen, we will show you that Scott instantler retired from that committee and immediately retired, and he resigns from that committee. Others subscribed to bring Riel into the country. He never subscribed a penny, but refused to do it. Others, after he arrived in the country, subscribed towards his maintenance in the country. Scott never subscribed one cent towards that object. Now, the object in this prosecution is to try and identify Scott with this rebellion. That is what would appear at first glance. It is nothing of the sort. That is not it at all. It is this, the French half-breeds, a number of them have been arrested, and a number of them have been convicted. A number of Indians have been arrested, and some of them have been convicted. Now, to please the Province of Quebec, we must convict a white man, we must convict a white man or we are gone at the next elections. Gentlemen, this is not a criminal prosecution. It is neither more nor less than a political persecution, and I now say that with the intervention of six men, I care not to what party in politics they belong—I scorn to appeal to political feelings or principles in the matter, in a matter of this sort, but with six honest men before me, I defy the Crown to find that man guilty of any act that is illegal and against the British constitution. On the contrary, he stands there to-day before you as loyal a man as sits in the box, and as loyal a man as sits on the bench, and as loyal a man as sits at the counsels' table, the only misfortune is that he happened to have the impudence to go to public meetings to demand the rights of himself and his family, and to give that demand in unmistakable language, such as an honest man need never fear to utter. "Such is my right, I demand it."

Louis Riel was sent for. Louis Riel came, unfortunately for Canada, unfortunately for this country. Louis Riel came back, but was he the same Louis Riel of 1869 and

1870? No; with all the outward form of the same man, the man was not there. The man of 1869 and 1870 was as intellectual a man probably as you could meet, of his age, on the continent of America, a man of sound mind and sound judgment; but the life that he led during the five or six years was enough to drive any man crazy, and he became crazy, a dangerous lunatic, a very dangerous lunatic, as dangerous in a community as a rabid dog. There is no doubt of that, but these unfortunate people, these unfortunate French people, half-breeds, are not medical men. They are not experts on insanity. In this court you have the spectacle of half a dozen or more medical men—some of them proclaiming that Riel was a lunatic, others proclaiming that he was perfectly sane. Now, under these circumstances, when some of the most learned specialists in Canada could not decide whether the man was crazy or whether he was perfectly sane, is it altogether right and charitable to say that the French half-breeds should have had more judgment than the cleverest specialist that you can bring from Canada here, that the Crown could bring, to prove that man's sanity or insanity? They were misled by the man. They are a very extraordinary people. It is perfectly understood that the North American Indians, from whom they have all sprung, that they are full of their superstitions, that every act that they perform, every act of life there is some superstition attached to; that an Indian won't take his pipe and smoke before he puts it to his lips, and almost imperceptibly to the looker-on he turns it to the four points of the compass. That will not be perceived probably by one man in a thousand, but it is so, and he takes no step from his tepee to go to visit his neighbor without muttering some incantation. There is a peculiar superstitious feeling implanted in the soul of the Indian that comes out unto generations after in their offsprings. The half-breeds are completely imbued with those superstitions; and what was the result? Louis Riel made it appear to these people when he found that the priests were opposed to anything like a resort to arms or to any illegal means of trying to secure their rights, when Riel discovered that the priests would not second him, but they would condemn him, then he went on a new tact. Then it was that Louis Riel discovered that the priests and the ministers of the gospel in this country have a hold upon the hearts and upon the affections of the half-breeds that it is very difficult to set aside or to neutralize. They discovered that the Scotch half-breeds could be led, and led to a very great extent by their ministers in whom they have reposed, for a great length of time, the most implicit confidence. They found that with priests who had been the friends of the fathers and forefathers of the French half-breeds, that it was very difficult to do away with that feeling or with that impression. He found, gentlemen of the jury, that it was as difficult to do away with the impress, the characteristics that the priests had impressed on the half-breed character as it would be to do away with the footsteps of the priests, of the ministers of the gospel on this great continent of America. He found that he might just as well start at the Gulf of St. Lawrence and travel every step up from there until he struck across the Rocky Mountains and found himself on the Pacific coast, every footstep of which has been marked out in the first place by the footstep of the priest or the missionary starting forward of civilization and performing God's work, irrespective of the feelings that might come to himself, or to the consequences to him as he passes through a wilderness seeking to bring souls to God, and to bring a vast country to the reclamation and civilization that fits it for the habitation of man. He found that it would require superhuman efforts to do that; and he had recourse to those superhuman efforts. He made them believe in his visions. He told them that he had communications with the Holy Ghost. He told them that he was a second Messiah. He made them believe that, in their simplicity, and in their ignorance and superstition. He made them believe that he had conversations with the saints. He made them believe he could make it thunder and that he could make lightning fall and strike any object that he pleased. He told them, fear not but follow me, and you will find that even if I am shot, if they kill me, I will come to life and be among you again as Christ was, and they never can get rid of me until they have granted you your rights.

Gentlemen of the jury, under such influence as these, Louis Riel succeeded in bringing about, in dragging with him, and by a finesse and a ruse that would do credit to the brightest politician on either side of the House in Canada, he made them assemble to celebrate the festival of their national saint—I believe they call him Joseph—and he told them to bring their guns with them, so that they should fire a *feu-de-joie*, they should fire a volley in honor of the saint, after the religious service. They came there. Is it to be supposed, and do I suppose for a moment or do I want you to suppose that there were not among those men who went there, those who knew the object that Riel had in view? Certainly there were many who knew it, but how many were there who did not know it, and who went there in perfect good faith? Why, gentlemen, those that saw the sight that I witnessed here a couple of weeks ago, old men tottering on the brink of the grave, from seventy to eighty-two years of age, half a dozen of them standing there trembling in front of this dock, they would see at once that these men must have been misled or they never could have been placed in the position. It is all very well to find healthy, robust, strong, young men ready to rush into danger, but when you see the poor, tottering, old men stumbling along, and at every little hillock it is simply an effort to climb over—nice warriors weren't they, to go out and fight against the disciplined troops of Great Britain? Why, you can see at once they were misled in some way. They were misled, but such men as these were not to be misled—such men as we will bring before you to-day were not to be misled—the English half-breeds who had sympathy with these men in the demand of their right. They had both rights, they had rights both equally. The English half-breeds had just the same rights to demand as the French half-breeds, and more, because in a great many instances the French half-breed was re-demanding rights already accorded to him in Manitoba, whereas the Scotch half-breeds who had settled here and at Prince Albert and Battleford, they had never had any claims settled before, and they were awaiting their settlement. Very well, these men had gone on a certain length. They had taken part in these meetings. They had taken part in these petitions. They had demanded their rights. They waited for five years with petitions and demands and meetings, and they received no answers. They had sent petitions to the Lieut. Governor of the North-West Territory here at Regina. They had sent petitions to Ottawa. They had sent petitions to the Minister of the Interior. Their priests and the ministers of the gospel had joined them in sending these petitions. No answer, and still they had to go on and obtain their rights, try and obtain them. They were only too glad to have a man of Riel's ability to assist them, but just as soon as Riel undertook to do that which no loyal subject can do, then that very moment the English half-breeds and the Scotch half-breeds said to them at once, we are not going to become party to any illegal act, we are with you, our sympathies are entirely with you in everything constitutionally right, but we will not follow you into rebellion or into any public disturbance.

Now this brings us down to where the present prosecution—or no, it is not a prosecution, it is a persecution—begins. Scott being a man who had been in the service of the Hudson Bay Company during fourteen years, who came out from the Orkney Islands and went into the service of the Hudson Bay Company, remained there until some years ago, when he left the service and became in turn a trader among the Indians, and ultimately married a half-breed wife and settled down on his farm up at Prince Albert, where he cultivates something like 300 acres, and where he is in a position of very great trust for a large mercantile and trading firm, known as the firm of Stobart & Eden. There this man was. There he took part in the meetings. He took part in all the meetings that were held to try and secure the rights of the half-breeds. He sympathized with these half-breeds and went on with them until it was discovered that they were doing, or about to do, something that was illegal. Now, gentlemen, here begins—here is the head and front of his offending. A meeting was held, it appears, and at that meeting resolutions were passed sympathizing with the French half-breeds, sympathizing with them in trying to secure their rights, but condemning the resorting to any illegal means of doing it. At that meeting, three men were elected delegates to go down to where the French half-breeds were

said to be assembled, and find out what was doing, and by that means to be in a position to preserve the peace and to avoid the shedding of blood. There were three of those men went down. Is it not singular, there were three delegates went to Batoche, and there is only one prisoner in the dock? Where are the other two? Were they less guilty than he? Ah, no, gentlemen, not a bit less guilty, not a bit more guilty, but they had not dared to set up their impudent tongues against the gentlemen who represent one or other of the political parties up there, and who dared to say that the Government that they were in favor of was not doing just everything that was right. He had dared to do that kind of thing. Isn't that enough why a British subject should be put in a dock and confined and found guilty of treason, high treason? Why, he ought to be hung—he ought to feel that he ought to be hung? He dared to say that his rights had not been given to him according as they had been pledged on the faith of a nation, and the faith of a nation that has never sullied its flag until it is likely to be sullied by the mean, contemptible, illegal manner in which Canada, the offshoot of the Empire, is maltreating and ill-treating, through her servants, the poor half-breeds of the North-West Territory and the poor Indian of the North West plains, and that certain parties may become gloated with wealth while the people of the country run the risk of having their throats cut by starving Indians, any time from January till December.

Now, gentlemen, as I say, there were three delegates. We have only one prisoner. Where are the other delegates? You see if in this country there had been a grand jury, and you had formed a portion of that grand jury, you would naturally say, why do you single out this one man? But there is no grand jury. Why, Lord bless your soul, why should there be? A mere white man in this North-West has no right to British protection or British law, they must just be prepared to submit to anything that is being done by the Government appointed over them, says the learned counsel for the Crown, they must groan away until it pleases their masters to relieve them from their present position; they must not utter a word. Well, what does he do? He writes a letter; he goes down there to Batoche at the request of that meeting; he went there on the day—not the day that they have alleged in that indictment, as I have shown you—he went there at the dead of night. He started in the morning, at the request of his fellow-citizens. He started with his two comrades, both of whom will come before you to-day, and both of whom will declare that if he is a felon, they must be felons also. They will come before you to-day and they will declare what was done. They started about one or two o'clock on Friday or Saturday morning. They went to Batoche; and whom did they meet there? They met some of as loyal men as ever trod the earth in Canada or any other country. They met some gentlemen there that even paid spies, the paid informers and paid bloodhounds of the Government dare not even cast a finger of suspicion upon, for fear that public opinion would wither them into a grave of oblivion from which their heads could never be raised again. They met there such men; and Mr. Hilliard Mitchell, known all over this country, who was there just on the same errand as they were, a gentleman who is known far and wide in this North-West Territory, a scion of an English company, and who does not know anything worse to do than that which might mar the dignity of the British lion. They found such men as him there, and he will tell you what they were doing there. He will tell you that this poor fellow Scott was not there to rebel; he was not there to try and induce his fellow half-breeds or those he had influence with to go into rebellion against the Queen. No; he will tell you on the contrary that every word he uttered was in favor of peace and loyal prosecution of their rights by constitutional means, and, gentlemen, whom have you to contradict this evidence? Whom have you to state to the contrary? You have a letter. Is there anything in that letter? Now, let us look at it. Is there anything in that letter? Every man sympathises with you. What did the witness for the Crown say? What did that gentleman who came there as a witness for the Crown say? He drew a lot of papers out of his pocket and read them. And what did he say in his resolution which he himself drafted? "We all sympathise with you," sympathise with you in it, in your attempts, in your legal attempts,

to obtain your rights. That was a meeting that was convened, that was called at the suggestion of the highest military authority in the country, and a meeting at which resolutions were passed that you had read to-day by the secretary and in which he says we sympathise with you. How is it that that witness was standing in the box as a witness and that this man was in the dock as a criminal? That is an extraordinary thing to me. The learned gentleman who is prosecuting for the Crown and who has had the experience of years in Crown prosecutions, and who enjoys a reputation of having the first ability as a Crown prosecutor, second to none in Canada, labored, labored so that you, gentlemen of the jury, must have seen what a tax it was upon him to try and make you believe that there was something in that letter that was sufficient to ask you to damn that man for ever, and his family after him, by a verdict that he was a dishonest and a disloyal man. The Crown prosecutor felt himself that he was called upon to perform a duty that was unworthy the position he holds at the bar, and that was unworthy of being brought forward before a British court for the purpose of trying to attain certain political objects for the party in power, who are entirely to blame for the unfortunate state of things that has taken place in this country. Now, it is said that he wrote that letter; you must understand that he wrote that letter. Now, gentlemen, we are not here to admit anything. A man put upon his trial has nothing to admit. That is a principle that the learned judge will tell you you are bound to be governed by. That is the honest faith that the law of England pledges to every man. You are not bound to admit anything that will criminate yourself, and even where it might be to the advantage of the accused to admit he is wrong, frequently in admitting, a skilful Crown prosecutor turns his admission against him, and for that reason he is perfectly justified, and the law throws its mantle of protection around him not to admit anything. We deny that letter. We deny it *in toto*. Let them prove it. Have they done so? Not a bit of it. On the contrary, I will tell you what they have done. They have brought men up here to-day, and in thirty-one years' practice at the bar of Quebec and the bar of Manitoba and the bars of several States in the Union, and lastly at the bar of the North-West Territory—I have had to come here to see some such evidence as I saw to-day, and what did I see? I saw from one of the most prominent offices in Manitoba, from the head post office in the Province of Manitoba—I saw a boy a third or fourth or fifth rate clerk, or perhaps for aught I know the young man who carries the coal in a scuttle to fill the furnace with in winter, or who sweeps out the office after office hours—we have him brought up with a whole pile of papers, a sheaf of papers, and to prove what? Gentlemen, to prove the signature of a man who has resided at Prince Albert for the last six or seven years, a man whose handwriting amongst his neighbors and friends must be that well-known that there could be no doubt of it. How is it that they have not been able with all the facilities that the Crown has for getting evidence? One or other of two things, either the Crown is so detested that the people will not give evidence for the Crown or the accused is so respected that there is not a man in the country will come forward and assist the Crown in doing their evil. I believe that from my heart. I believe that is the reason why they could not find men vile enough in his neighborhood to come forward and say that is the signature of Thomas Scott. Consequently they are put to this, and look at it. They have this boy come up from the post office, and he says that these are documents from the post office, these are the documents from the post office at Winnipeg, this is a bond and this is a contract. Gentlemen, do we go to the cabin boys on board ship to ask how her head is turned? Do we go to the tipstaff at the door of the court to ask for a legal decision? Do we go to the passing stranger if we want a certificate from the registry office? Do we go to an apprentice if we want to have our measure taken? Do we go with our eyes closed if we want to see what is passing around us. No, we are not so foolish as to do these things, but if I wanted to produce that document in this court, if I wanted to produce in favor of the prisoner that document, why there would be such a shout of sarcasm raised at my expense that the whole building would ring with it and justly so. It would be the futile attempt of a man who knew

nothing about evidence and was trying to force down the throats of a jury, and trying to humbug a court by pretending that that is a public document publicly proven. But look at the document you are brought to have faith and confidence in. Is that treating a jury with common courtesy? Look at it. What is torn off that? What is torn off it? That is a public document. (Mr. Clark here refers to tears off the corners of the documents.) And you are asked to believe that every place where "Tom Scott" is signed on that paper, must be the truth, that it must be his signature. Why, gentlemen of the jury, you all know, you have the proof here that Tom Scott has not been at his place for months, and still his name is being signed every day by the little boy who is left there in charge, and a year hence another little boy from Winnipeg will be brought up with half a dozen dirty torn scraps of paper and he will ask a jury on their solemn oath to believe that that was sufficient proof of a man's signature who stands charged with a crime that may send him to the penitentiary for life. I don't think it is necessary to talk any more with reference to that kind of evidence. Now, gentlemen, you will be told that you have to take the law from the court. Yes, and I say with all the submission that I have learned during the thirty years' practice you have to take the law from the court, and I have to take the law from the court, and I say the court is responsible for the law, and you are not; but you are not to take the facts from the court, nor your appreciation of the facts from the court, you are the sovereign judges of the facts as the court is sovereign judge as far as that court's decision goes until it is appealed from and set aside by law. From your facts there is no appeal. You are responsible to a higher tribunal than the highest court in the North-West Territory; you are responsible to a higher tribunal than the tribunal that sits and is supposed to be presided over by Her Majesty the Queen herself. You are responsible, and responsible only to a tribunal before which the thrones of kings and emperors are mere playthings and are overwhelmed and forgotten, and the souls that go before Him to be judged have to answer for everything that they have done when called in solemn oath to decide according to His justice, calling on His sacred name to be their pledge that they are going to decide honestly. That is all you are responsible to. You are not responsible to any less power than that, and as British subjects responsible only to God and with that ancient feeling of devotion that you owe to the flag under which you were born and your forefathers before you, beware, beware gentlemen of the jury of being misled, beware of assisting in driving one nail, or giving a tap to the smallest nail that the Crown tries to drive into the civil coffin of that unfortunate man. He is your fellow citizen, he is your brother. You will protect him. You will protect him by your oath, you will protect him, and you will protect him by calling upon God to witness that you are doing that which honest men are not afraid or ashamed to do. Gentlemen, I was told when I was coming here to defend some unfortunates who were in jail, some of them properly so, some of them improperly so, I was told that everything was political here. I said to one of the people who informed me of that, there must be a mistake. No, there is no mistake, everything is run in the North-West Territory on political principles. If you get a Tory jury in the box they will give a verdict against everybody. I said, pardon me, sir, I think you are stating a falsehood. Well, he said, if you get a Grit jury in the box they will do just the same. You will excuse me, but I believe you are telling a lie, and I placed a very strong adjective before the word "lie", stronger than I am in the habit of using, and why? I say it is one of the most irreparable insults that can be offered to reasonable men, to suppose that they will go deliberately in the box and will call upon God to witness that they are going to do what is fair according to the evidence, and that they could for a moment be swayed by any outside feeling or any outside oppression. Why, gentlemen, I spurn the statement with scorn, the scorn that it deserves. I care not whether you are Grits or Tories outside of this house, but the moment you go into this box as jurymen I feel that you will leave both the Grit and the Tory outside the door, and there you will feel that you are sitting in the presence of God, under pledge to Him to act fairly, according to your oath, and that you have the eyes of your fellow-men upon you, who will decide for themselves, each one, whether you have acted as honest men or not. That is the feeling that I am satisfied will animate the jury.

Now, what is the next evidence you have of that letter? What evidence have you of this letter being Scott's? You have a gentleman who comes here and who declares that document to contain the signature of Thomas Scott. You have a right to examine all these documents, gentlemen, every one of them there, yourself, until this trial is over, everything, every document is yours to examine and to scrutinize and to be satisfied upon. Well, this gentleman looked all over these papers and he compared this "Thomas Scott," "6", an I. O. U., given to John McNevin or order \$30, at three months from date, for value received, signed, Thomas Scott, witness, Joseph Thompson. Well, Mr. McNevin said he did not see Thomas Scott sign that. It was given to him by Thompson, but he thinks it is Scott's signature. Well, gentlemen, it is not necessary for me to say anything, you can look at that. You will find it is written, the whole thing written by Mr. Thompson in Thompson's handwriting and it is as much Scott's signature as it is yours. Thompson is Scott's brother-in-law, and he does not repudiate that he owed that debt, but that is not his signature.

You have an expert brought up who tells you, he looks very critically over these papers, and he tells you these are Scott's and they all resemble each other and in fact they are all Scott's. Well, now, gentlemen, you don't require to be experts to look at those signatures. He says all these signatures may be Scott's, but particularly, gentlemen, he said the last signature that was given to him he compared with No. 1, and said it was Scott's, but that signature was written by the gentleman sitting alongside of me at the table (Mr. MacIse) and that shows the folly, the value you are to attach to the evidence which says those signatures are Scott's.

Now, gentlemen, I am going to tell you another thing, and the Crown cannot contradict it. The Crown is obliged to bring the best testimony, the best proof, the best testimony that the case is susceptible of, that is the duty of the Crown and it is the duty of any private person as well, he who affirms must prove. They affirm that that man is a felon. They have to prove it to do that. They affirm that these are Scott's signatures, they are bound to give you the best testimony, and whose is the best testimony? Is it the boys who came up from the office and takes these papers and says that he believes these are his, this is witnessed by Charles McNabb and Martin Hoover; the Crown has unlimited reserve. Why didn't the Crown bring witnesses to prove that signature? (to the bond). Now, gentlemen, I don't give you this as matter of proof, I give it to you as matter of law and I shall call upon the learned judge to tell you that as matter of law, the Crown was bound to bring the best testimony, and what is the best testimony? The witness to that signature. But there is another thing that the law tells you, it says this, that the party that does not bring the best testimony not only is at fault, but it is a strong presumption that they dare not bring the other for fear it might make against them and in favor of the accused. That is the law. I say that in that position this Crown case stands to-day. Now, with reference to these other documents which you have here, you have the evidence of this expert, you have a lot of these signatures on paper here, and you heard the expert's evidence pronouncing them to be all written by the same party, but particularly that that last one written on the scrap of paper and marked "D," that that there can be no doubt about. Now, I will prove to you by a gentleman, Mr. Ross, who is beside me and it was written in my presence and in the presence of three or four others, it was done just to show you how valuable expert testimony is, and how dangerous it is for one moment to beget even a degree of suspicion in the mind upon the pretended testimony of an expert, a man who first says "I" is written by the same man who wrote "D."

Now, gentlemen of the jury, so much with reference to that letter, but you will be told by the learned gentleman that this letter was found among Riel's papers. Capt. Young says he found that among Riel's papers. Very well, it is very possible, but what proof have you that that man put it among Riel's papers?

Now, I am arguing, gentlemen, as if that letter made a difference. I want to show you, gentlemen, that a man on his trial in a British court admits nothing even though the admission may be favorable to him. It is for them to prove, not for him

to admit, it is for him to deny everything, and let them prove it when they dare to arrest him on a charge of felony and that felony degrades him as a British subject—let them prove that he has been false to his allegiance. Very well, what evidence have they got? They find that piece of paper which they at once make up their minds must be that of Thomas Scott, and they bring him up on that because he was one of the white men who were sympathising with the half-breeds at Prince Albert and who have been denounced as rebels—every one of them. Why, on the same principle, every person who appeared in that box to-day are rebels, they all sympathised. Up to that time, they were not rebels, but my learned friend would say, why they sacked the stores?—I don't know that, we have no proof of it—hadn't they sacked stores and taken up arms? On the same principle some leading men in the Dominion of Canada to-day should have been hanged in 1849. They sacked the Parliament Buildings, they burned the finest library that Canada ever possessed, and documents that can never be replaced, and they took the mace, the emblem of Her Majesty's authority from the table in the House of Commons in Canada and carried it in derision around the streets, and they cheered and sneered around it, and when Her Majesty's representative, the Governor General of Canada, appeared in his carriage to assent to a Bill in Her Majesty's name, these loyal men that now talk about the disloyalty of others, they were the men that surrounded the carriage and treated him with rotten eggs and broke the carriage window with stones, and the sterling old Scotchman when he was surrounded by a troop of cavalry as brave as ever bestrode a horse, when they wanted to charge, no, said he, not a bit of it, let them throw stones at me, never will a representative of Her Majesty in Canada, so long as I have that honor send back a shower of leaden bullets to leave widows and orphans because a few rotten eggs were hurled at me personally, it is no insult to the Queen, and I won't accept it as one, and I won't allow one of Her Majesty's subjects to be shot down, and he did not, and he was one of the highest men in Her Majesty's Dominion. He was one of the most trusted, one of the best governors we ever had in Canada. It was no treason, and why? Because it was one of the political parties of Canada, those who called themselves, in fact, the Conservatives of everything that is good and wise in our country, it was they who surrounded Her Majesty's representative and treated him with rotten eggs; but there was not one of them put in the dock. Not one, and Lord Elgin was hooted for weeks in the city of Montreal, the capital, the heart of civilization in Canada. But they did more. These men that ordered this persecution to-day, they did more than that. They followed that up in 1849 by signing an annexation manifesto. The Minister of the Interior, Lord McPherson, was the first who signed the annexation manifesto calling upon Her Majesty to allow her flag to be torn down and the flag of the United States erected over this country, and these are the men that call upon you, gentlemen of the jury, to consign one of your fellowmen to the penitentiary for life because he dared to ask for his rights from them. Sir John Rose, Sir D. L. McPherson, John J. C. Abbott, present Chief Justice of Quebec, Mr. Dorion, every one of their names is signed to the annexation manifesto of 1849. These are the men that are ordering the prosecution of an unfortunate wretch because he dared to demand the rights of his wife and family. Gentlemen, let us consider all these things, when we are talking about how nice and how positive are the marks by which you are to know treason and treason felony; and if a man hears that an old woman is going to sack a beehive, unless he goes immediately and makes the authorities aware of it, he is to be considered guilty of high treason, and if you hear the Indians or squaws concocting something in the Sioux or Cree language that you imagine is something that is going to endanger the fate of the nation, and you don't run away and immediately tell the nearest constable and inform him of the two old squaws, and have the two old squaws arrested, you are guilty of misprison, of treason.

Now, gentlemen, there is just about as much sense in those two examples I have used as there is in a great deal that has been said to-day about treason and treason felony and the misprison of treason. "It is not enough" said the learned counsel, "it is not enough to remain neutral. To remain neutral under the circumstances is treason." Why didn't he arrest his own witnesses? Why doesn't he arrest Major

Crozier? Why has a warrant not been taken out to arrest Colonel Irvine? These were the gentlemen who sent those men in good faith to ask the English half-breeds to remain neutral. Why should those that remained neutral, one of them be sacrificed and clapped in the docks, and those who are paid to fight their country's battles, and who sent laymen and clergymen to try and get the people to remain neutral, why were they let go at large? Gentlemen, if anything were wanting to show the complete littleness of this persecution, I think the Crown witnesses have shown it to-day. They have got in the box, one after the other, and they all united in saying that the best thing they believed that could be done was to keep the English half-breeds neutral; and, gentlemen of the jury, it is not necessary to tell you that they were right. Supposing that 300 or 400 of the English half-breeds of this country could have been so far misled as to join with these superstitious fanatics who were led into rebellion against the proper government by Riel, what would have been the consequence—what would have been the consequence to this country—if 45 to 75 and from that to 100 and 150 unfortunate half-breeds stuck in rifle pits in the inclement season of the year, if they could kill off so many of our young men, than whom braver never trod the earth, if they could be picked off in that manner, what would it have been if the number had been swelled by such men as the English half-breed population in this country? What would have been the consequences? Do you suppose the present grief into which this Dominion is plunged would not have been made tenfold deeper than it is? Do you suppose that instead of 100 or 200 lives having been lost, if there had been 1,000 under arms there, that there would not have been thousands of lives taken, and the treasure we have heard talked about here would have been thrown out to the extent of three millions, thrice what it has cost now? And do you suppose that Major Crozier, who saw exactly the position he was in, would have acted as he did? Why was it that Colonel Crozier sent that gentleman to try and induce these half-breeds to remain neutral? Because he knew it was the saving of thousands of lives, and it would be the saving of millions of treasure. Now, gentlemen, what part did this man take in that? We will prove to you that he was a leading man among the English half-breeds, we will prove that to you by English half-breeds, by Scotch gentlemen, men of education, men of intelligence, men whose honesty and honor is above suspicion, we will prove to you by a clergyman of the Presbyterian Church, a native of the country, one of those Scotch half-breed families who have already given character to the whole of this portion of the country, a family that has given three or four ministers of the gospel to the people of the country of which they are natives, men who received their education in the institutions of the North-West, and are a credit to any country no matter what flag it is under. You will have the evidence of such men as that, that Major Crozier requested him to try and use his influence to keep these people neutral; and if my instructions are correct, you will have from these people this proof that the man who is sitting here before you for trial as to whether you are going to declare on your oath that he is a criminal and worthy of being incarcerated in the penitentiary for life, you will find that these gentlemen will tell you that among all the influences that were exerted to keep the French and English half-breeds entirely neutral, Thomas Scott's was the most direct, and that if he had asked them to follow him, they would have gone after him, the great majority of them joining the French half-breeds. Now, you will be told that, you will be told that by those men, who are themselves English half-breeds, you will be told by men who reside among those people, you will be told that Scott from the moment that it was apprehended that these unfortunate half-breeds were going to be led into illegal acts by the fanatic Riel, that he put his foot down upon it, that he did every thing in his power to prevent it, that he went at the risk of his life, and his life was in danger when he went down there to Batoche, and when Riel told him he had "sentenced his own cousin to-day because he has been trying to desert us, what can you three men expect?" That was enough to make even brave men's hearts break, and still Scott told him, I am here as a delegate and I tell you I am not here for the purpose of doing anything that is illegal. Now, gentlemen, if that is being disloyal, the sooner we have a large number of disloyal men in this country

the better, and it would be well in this country if we could change off about 5,000 Government officials for such disloyal men as that.

Well, gentlemen, about the evidence again, you are told by one witness that there was a certain meeting, that at that meeting somebody proposed three cheers for the delegates. There was not anything very wrong in that. Somebody, he said, afterwards proposed three cheers for Riel. Well, now, we will see all about that. If that man told the truth, I think you will have half a dozen respectable men here who will be telling a lie. I have asked them particularly, and will ask them particularly, if such a thing took place, and I think their answer will be that they never heard anything of the sort, and they were present at that meeting and heard nothing of the sort; but suppose somebody in that crowd did cry out three cheers for Riel, was it Scott that cried it out? What did they use that for? What was the object in bringing that out? What was the object of bringing out that piece of evidence? Was it to try, by such a mean and silly subterfuge, to cast a reflection upon this man more than upon the individuals who were at that meeting? To say the least of it, it is going as near as possible to doing that which is ridiculous to try and do that which is a very great injustice. Now, suppose that cry had been made of three cheers for Riel, it might have been in derision. Why? Simply because that man did not dare to say that was responded to, or that there were three cheers given, and although they were very anxious, no doubt, to make it appear it was so, the Crown did not dare ask the question. He said he heard somebody cry three cheers to Riel, but he did not dare to ask did they give the cheers for Riel? But I asked pointedly were there many people there at the time, and the answer was yes, there were a great many people. I opened the door as wide as I could, and why didn't they ask did all these people cheer? They did not, and the reason was, I believe, gentlemen, that such a cheer, I don't believe, was asked for. Very probably the gentleman who heard it was crouching in the corner when he heard it, not man enough to take one side or the other, and he may have said to himself three cheers for Riel, and that was his real feeling, but he was not man enough to give it expression, and he was the only one at the meeting who did. It looks very much like it. I think, gentlemen, you will have three or four witnesses whose word you will not doubt, who will swear they never heard anything of the kind, and did not believe any such thing could have occurred without them hearing it. Even suppose it had been, those words would not be in the slightest degree treason. Words spoken are not treason, even treasonable words, unless they are taken hold of in a certain length of time. I need not dwell on that. It is a point of law, and that point rests with the court, and the court will charge you with reference to it.

Now, with reference to this terrible man Scott, I have another thing to draw your attention to. He was brought down from Prince Albert some time ago. He was in jail until the day he was brought before this court. When he was arrested he was not told what he was arrested for. From that until he was brought before this court he had no intimation of what he was arrested for, not the slightest, but I will tell you something that is more extraordinary than that. Before he came down here he was arrested at Prince Albert and was thrown into prison—no, not into prison. He was thrown into a pen. He was thrown into a place that it was a degradation and disgrace to the officers who permitted him to be slung in there. Himself and several others were thrown into a place that was not fit for a respectable hog to be penned in, where water was flowing under the floor, and the openings so great that you could see the current, and where there was nothing between them and the rains of heaven except a few old boards, and the boards so wide apart that they were wet, and he was left there for seven or eight days without even a blanket to cover his shivering body, and this in a British country, this under a British flag. We that speak with horror of the black hole—we that speak with contempt of the proceedings in the French prisons and the institutions that are established where the cat is inflicted on a man's back, how much more humane would it be to strip that man and let his back run with the blood from the bloody welts of a whip, than put him into that place to die by degrees from disease con-

tracted from exposure and cold by human monsters, who dared in the name of British law and justice to hurl a subject of Her Majesty into such a pen. Gentlemen, if justice were done, and it will be done some day, for we will have a representative on the floor of the House of Parliament who will bring these men to punishment. They will be punished for it. Some of them probably will lose the uniform they have disgraced, when they have carried it and used for such vile, cowardly, and unmanly purposes. That is what they did, and he was kept there and removed into prison, and for several long weeks, during which time his magnificent form was completely racked, and everything—the substance that he had been collecting around him for seven long years—scattered to the four points of the compass. The very chickens that his children fed on the farm were carried away by the vile thieves who, in the name of law, were destroying the homestead of a British subject. His cattle were taken off, and the man who had the contract to feed the volunteers, the supply officer, sold his cattle and fed them to the troops, and you will have to pay for them, because he will charge double their value before this account is settled off the war, and those that he did not, he carried away and brought them to the Hudson Bay Company, and put them there, and kept them until they died of starvation. Gentlemen, the police were taken to his house, to his barnyard. The time that Major Crozier started to come to the relief of Middleton, fifteen miles, or something like that, out from the place of their headquarters, they came to the farmyard of this man, they remained there, they remained there during a portion of the time. They received some reports about 10 or 11 o'clock at night, but in the meantime they had taken a magnificent haystack, ten or fifteen tons, and had scattered it around, and the litter for their horses, that they could not destroy, they left with the fences down, so that the cattle of the whole neighborhood went in, and when the unfortunate wretch was kicked out of prison, without being told who brought him there, or who was letting him go, his hay was there before him, a pack of disgusting manure, good for nothing. His fine land—300 acres—with smiling, glorious crops for years past, 1,400 bushels of wheat that he had in his granary, to put in the land, was taken away by the same supply officer, and the man who was in charge of it was even in danger of his life. He was told they would take it by force, and they did take it by force and carry it off, and, gentlemen, during all this time this terrible sinner, this terrible man, who was guilty of doing that which the commanding officer of the police asked the best man in the country to try, namely keep the Saskatchewan half-breeds (English) from joining the French half-breeds, he was languishing in prison, while all the little wealth he had in the world was being destroyed by the monsters who disgraced Her Majesty's uniform when they were doing it.

Now, the learned counsel said in his opening address, we will prove acts of inciting, aiding, consulting, &c., Indians and half-breeds. How did he prove it? He must prove it himself. He will have to go into the box himself, or get some of the other officials to do it, because the witnesses most undoubtedly have not done it—not one of them—they have not approached it. They have said, every man of them, in so many words, just this, boiled down: If Scott is a felon, if Scott is guilty of treason, we have been guilty of the same. If Scott is charged with getting people to remain neutral, then we ought to be charged for the same, because here are proofs that we did so. Oh, but the Crown will tell you there is something more than that. Scott asked the volunteers to lay down their arms. Gentlemen of the jury that is not true. I would use a harsher expression but that I think the oath of a respectable man will be stronger than any adjective that can be used in the English language. Scott did nothing of the sort. I won't accuse the gentleman who said that of deliberately stating that which he knew not to be true, I won't accuse him of it, but I will simply say that it was a misapprehension, a misunderstanding, and I will prove that to you by gentlemen who were present and who were there in an official position, because they were sent there by Major Crozier to try and keep their Scotch half-breeds or English half-breeds neutral. I will be able to prove to you by those gentlemen beyond the possibility of a doubt that here

is what took place—between Batoghe and Prince Albert there is this place called the Ridge. Now this place called the Ridge is in a very uncomfortable position, was about that time, the Indians and the half-breeds if they had made an advance upon Prince Albert in absence of the troops who had gone away or the volunteers who were going away to Battleford, why the very heart of the country was taken; but worse than that, so far as these poor people were concerned, when the troops were all gone from Prince Albert, no assistance near, if the Indians and the French half-breeds formed a union, they most undoubtedly must pass in their way this place called the Ridge, and all these half-breeds settled around there would have been no doubt, as they expressed it, exterminated. You will have proof that the poor women there were in such a terrible state of dread and almost distracted, they were calling upon their husbands, upon their sons, upon their brothers for God's sake to remain to protect them and not to go away to Battleford, not to go away to Prince Albert, and Scott committed the enormity at that meeting of saying these things. He said this is a senseless move, if the French half-breeds and the Indians unite, they will come on and all your troops are away and you have not a gun, they are all gone and who is to protect Prince Albert, who is to protect the Ridge, if they are all away to Battleford and Carlton? Carlton is garrisoned by the Mounted Police. They're strong enough no doubt to defend that, there is no doubt they are strong enough to defend that, while, if all the men here go away and take arms with them we are left defenceless and Prince Albert is left open to the half-breeds and Indians, and everybody will be slaughtered.

Gentlemen of the jury, put yourselves in his place, do you think he was right, or do you think he was wrong? Do you think that they were not doing much better to remain at Prince Albert and fortify Prince Albert and keep their strength at Prince Albert, which they had to do in the end or to go away and leave Prince Albert an open prey to the Indians and the half-breeds? I think he was right and I think that those gentlemen who were present at that meeting will tell you he was right, and they all advocated the same thing. Oh, but you see the Crown, anxious by any means to get a grasp on this unfortunate man's throat, they seize on that point, he said the volunteers must lay down their arms. Now, gentlemen, they were not volunteers, they had no legal status, they were not recognized as volunteers, no man had a right to arm those men and take them away from their homes, and they remained there, and they did their duty outside the walls of Prince Albert. I am told outside of the woodpiles they were left night after night, and their masters remained inside comfortably. Well, gentlemen that is neither here nor there, only it shows you the immense amount of interest that was taken in these unfortunate people.

Now, the points are that the letter, I don't think, gentlemen, you have the slightest proof of, proof that is sufficiently convincing to identify that letter in any way with Scott. It is not a matter of sentiment; the law tells you that where there is any doubt you are bound to give the benefit of the doubt to the accused. It is not a matter of sentiment, it is not a matter of choice, it is one of the strongest provisions of the British law, that the benefit of the doubt must be given to the accused; and if that is so in a private prosecution where two private individuals, either in a civil or a criminal case, are proceeding against each other, how much more strongly should it be so in the case of evidence given by the Crown with all its innumerable resources where they could have proved everything if they desired, if they dared to have proved it.

Remember, I said the Crown was bound to give the best evidence, and I repeat it, and I am going to draw your attention to another fact; if they wanted to prove that letter was written by Scott to Riel why didn't they bring Riel to prove it? He was the man to know it. That is the best evidence. And failing him, why didn't they bring Garnot whom they had under examination two or three times? Why didn't they bring Riel's secretary whose handwriting I believe is on the back of this magisterial document—why didn't they bring him here to prove it? They dare not do it, and you are bound to take that view of it. The law says that where the Crown fails to bring the best evidence, that you are to take it for granted that they fail to do so because they fear it would tell in favor of the prisoner and against the prosecution.

Now, that is a proposition of law that there is no getting over. The Crown must produce the best evidence. It is not far from here to the barracks, and why didn't they bring Garnot to prove this? He was the secretary, they say. In fact they convicted and sentenced him as secretary for Riel. Why didn't they bring him? Gentlemen I beg of you not to lose sight of this part of our defence with reference to the best evidence. It is not as I say a matter of sentiment, it is a matter of law, it is one of the strictest rules of law. The authorities on British law say that it is imperative that the best evidence shall be adduced. Now, that is the best evidence, if you wanted to-morrow to be satisfied, or to-day as you do, as you are bound to be satisfied in your own mind, in your own conscience about that letter, will you not say for yourselves the man who received this letter certainly ought to know most about it; and next to him the man who endorsed this letter, he who was the secretary of the recipient and who after him was the next best person? Why have they not brought either of them? Consequently, gentlemen, I have no hesitation in saying that the letter, so far as the evidence is concerned—and I shall expect the learned judge to charge specially on that—is not worth the paper it is written on. There is no evidence to sustain it.

Gentlemen, there is one other individual we have got to deal with, there is a certain gentleman, a Mr. Astley, who came into the box. Well, that gentleman has sprung into a most unenviable position, an unenviable notoriety within a short time back. He was a scout during the rebellion for the Government. Since the rebellion he has become a scout for the court. During the rebellion he was a prisoner. Since the rebellion he has been an informer. That is the only difference, but when he came in that box to-day and told you that he was sitting in a sleigh with Capt. Moore, and that Capt. Moore has gone to England, and that in his presence this man said to Capt. Moore so-and-so; why, gentlemen, I stamp it and brand it as a falsehood. Had such been the case, Capt. Moore, than whom a more loyal man never trod on the earth that is covered by Her Majesty's Crown—he was not going to be guilty of that crime described by the learned counsel for the Crown—he was not going to be guilty of this misprision of treason and not denounce the man and have him arrested for that illegal utterance. If so, the sooner they march out their warrant for treason against Capt. Moore on his return or send it across the ocean as a specimen of North-West justice, and have him brought back, and that on the utterance of Mr. Astley.

Now, with these few words, I feel inclined to leave Mr. Astley. You must remember this that when a man becomes so extremely useful about a court of justice as Mr. Astley has become lately, even the most credulous juryman would begin to doubt all about it. We have several characters in history that serve to illustrate that feeling. We had a Jennie O'Brien in Ireland. I am sorry to say there are a great many Jennies in Canada also. They had a Titus Oates in England, a man who sent more heads to the block and left more noble families in England mourning, probably, than any other man of any other age, and still at the end of all the blood that had flown from the block and the stake and of the terrible sufferings on the rack, Titus Oates found himself but worthy of the death that he had caused others, that every word of testimony that was given was a lie out of whole cloth from beginning to end, and his name to-day stands pilloried in history with a character that is sufficient to do honor to the reigning prince of hell and to sink the credibility of a whole nation who could believe. Gentlemen, this man's testimony is uncorroborated in every particular. There is not a circumstance to corroborate it. Not a solitary one in all this. Believe him, and you must doubt the loyalty and the manhood of Captain Moore, who was not a scout but who nearly lost his life in defence of his country. I tell you I have no hesitation in saying that to believe him is to cast doubt on the loyalty of Captain Moore. It was his bounden duty, if such a thing were said to him by this man, to have denounced him then and there, and he would have done it. He was just the last man to allow anything of the sort to go. But, gentlemen, you see it is so hard to try and get up a case of treason against Tom Scott. It is true that Louis Riel, in his first rebellion, had a victim by the name of Tom Scott;

Are the Government of Canada; are the authorities of the North-West jealous of the reputation acquired by the famed, celebrated; notorious Louis Riel, that they, as a

-closing scene in the last rebellion, must also have a victim of the name of Tom Scott? If so, they have hit upon the wrong way of getting it. If so, they have hit upon the wrong means of securing their victim. If so, they must feel and learn that they cannot pick out a jury of six British subjects in the whole North-West Territory who will play second fiddle to their vile attempt upon their oaths by damning their own souls assisting them in bringing that victim either to the scaffold or within the walls of a penitentiary. They must learn that, and the sooner they learn that lesson the better.

Gentlemen of the jury, with the exception of one or two Indians that are to be tried, and probably another farce or two with some of the unfortunate half-breeds that have been locked up four or five months because they did not participate in any row or rascality, that this is about the closing trial of this series. I suppose it is. They have locked up that unfortunate man Poundmaker, and Big Bear is to be tried, and we have no doubt he will be punished; punished for what? It is necessary to make a victim. Where are the men that murdered the people up there near Fort Pitt? Where are they? Why are they not tried? Why were they not hung immediately after the very first victims, so as to show the people of the North-West and the Indians that speedy justice will follow the imbruing of their hands in blood of their fellow citizens? Why were they not tried, why are their trials left to the last? Is it that these bloody red-handed murderers may be allowed to escape? Why is it that the poor old man, who at the risk of his own life, defended the honor and lives of British matrons when they were in the hands of his young men, and their lives—worse than their lives, more sacred, their honor, was in the keeping of these poor unfortunate wild men? Why do they keep that old man locked up? And why do they allow hundreds of ruffians who imbrued their hands in blood to be to-day free? It is one of those extraordinary things that we have to wait and wait until we find out by degrees. But, meantime, just give us one white victim so as to counterbalance any offence that we may offer to the Province of Quebec, and we will thank you for it, we will make a victim of that victim, we will make it a cry at the next elections, and we will carry it out at the polls, and we will secure another lease of our political existence that should have ceased with the first gun that was fired by the people that were seeking their rights.

Rev. EDWARD MATHESON sworn:—

Examined by Mr. MacIise:

Q. You are acquainted with the prisoner Thomas Scott? A. I am.

Q. You are a native of Kildonan, Manitoba, are you not? A. Yes.

Q. With what church are you connected? A. Church of England.

Q. How long have you been in the North-West Territories and where? A. I have been in the North-West Territories since 1877,—eight years. Part of the time I spent as a school teacher out among the Indians north of Carlton, up to the fall of 1879, and then I came down to Prince Albert, and I have been there all the time since, with the exception of a visit occasionally.

By the Court:

Q. Since 1879 chiefly at Prince Albert? A. Yes.

By Mr. MacIise:

Q. About how far is St. Catharine's church from Lindsay school house? A. About four or five miles.

Q. You have known Mr. Scott for how long? A. Since the fall of 1879.

Q. What business was he in when you first knew him? A. I always understood he was a farmer. I could not be certain of that though.

Q. At the Ridge? A. At the Ridge, yes.

Q. He has a very extensive farm there, has he not a very large—? A. Yes.

Q. In what regard do the English and Scotch half-breeds there hold Mr. Scott?

Mr. Osler.—This is irregular. If you want to ask his character there is a proper way of asking it.

Mr. MacIise.—I asked what influence he exercised over them, and I want to know what influence he has exerted during the past.

Mr. Osler.—That is not regular either. What has he done?

Court.—The facts.

By Mr. MacIise:

Q. Well, were you present at a meeting near Lindsay school house, at the first meeting Mr. Riel held there that Mr. Scott was present at? A. I was present at the one there 11th July last year.

Mr. Osler.—What possible bearing can that have on the case?

Mr. MacIise.—I want to show what connection the prisoner at the bar had at the beginning and at the outset with the movements of these French and other half-breeds, and I will bring it down to the present time.

Mr. Osler.—I don't think it is evidence. There has been certain evidence given here which is or is not sufficient to convict the man of treason felony as the jury may pass upon it, those are the facts that are to be met by the evidence for the defence, that which a man does in July, 1884, has nothing to do with meeting the facts, we have brought certain points upon which we rely, and these are the facts that my learned friend has to meet.

Mr. MacIise.—You denied the people had any grievances.

Mr. Osler.—I did not deny it. I said whether they had or whether they had not grievances—

Mr. MacIise.—You said as matter of fact they had no grievances, but even if they had—

Court.—It is not a matter of evidence. I think it is far too remote.

By Mr. MacIise:

Q. Do you know what just previous to or at any time previous to the rebellion that actually took place, Mr. Scott's connection with the agitation that was going on was? A. I am not acquainted with his actions preceding that. I never attended any meetings except that particular one of the 11th July. I never attended any meetings previous to that.

Q. You had some knowledge though of what just before the agitation was, whether it was in a constitutional manner or not?

Mr. Osler.—Get at the facts.

Court.—Ask for the facts, what Scott's connection with that was, and then there would be no objection.

By Mr. MacIise:

Q. What facts came under your knowledge? A. The agitation was to obtain redress of the grievances by all constitutional means, and Mr. Scott was looked up to as one of the active spirits in the districts in this.

Q. Did you ever, in December, 1884, or later than that up to the time of the rebellion, hear anything of force being exercised? A. Never did.

Q. You speak Cree do you not? A. A little.

Q. Does Mr. Scott understand it, as far as you know? A. As far as I know, he does not.

Q. Now, just before the 22nd March or 21st March, about that time you left Fort Carlton did you not? A. I left on the 20th.

Q. What took place? What did you go for? A. I was instructed by the Bishop of Saskatchewan to go to Carlton and hold services there on Sunday, 22nd March. I was instructed first to go up and hold services there on the 22nd, and started on Friday, knowing nothing at all about the outbreak. On my way up I heard of the rising in arms, and I said that it did not make any difference to me, I would go on, as I was going, in the path of my duty, my ministerial business, and I would go on. I did not consider that there was any danger to me personally, and I

went, and on Saturday I went into Carlton and I slept over five miles short of that Friday night, and with Major Crozier's consent I made arrangements to hold services on Sunday inside the Fort, and early Sunday morning Thomas McKay, who gave evidence here this morning, came to me and asked me if I would go down to Prince Albert and hold three meetings, one in the Lindsay school, one in the St. Catharines church, and one out at St. Andrews, and he gave me to understand that Major Crozier was the authority that was sending me down, and I said I would go; notwithstanding that I preferred waiting attending to my own ministerial work there, I said that owing to the troubles I would come down and call those meetings, and I started as quickly as I could in company with Mr. Andrew Peterson. I arrived at Lindsay school just as the people were coming out of the service in the afternoon. That is what I was aiming for, so that I might have them all, as many as possible collected there, and hold a meeting or meetings there and explain to them my object in calling it, and quite a little discussion took place.

Q. What did Mr. McKay tell you to come down and do?

Mr. Osler.—That is not evidence. What he did is doubtful evidence, but what Mr. McKay told him is no evidence. I am not going to object to what he did, but what his instructions were from Mr. McKay is not evidence.

Witness.—I have a writing to show that I was authorized by Major Crozier to call these meetings. I have that in my pocket.

By Mr. MacLise :

Q. Produce it? A. Produced and read marked Exhibit "K."

Q. What did Mr. McKay say to you to get those people to do? A. He wanted me to get resolutions passed declaring that they would not support the French in arms.

Q. Was there any reference to how they would support it on constitutional matters? A. That up to a certain time they had worked together constitutionally, but from the time that they took up arms and went beyond constitutional means, from that time their connection with them was severed.

Q. And they were to remain? A. To remain neutral as they wished.

By Mr. Osler :

Q. Who was saying this? A. Mr. Thomas McKay.

Mr. Osler.—Well, this is not evidence.

Court.—Go on.

Mr. MacLise.—It is evidence.

Q. The people were not to declare themselves? A. They were not asked. I was not requested to ask them to declare themselves on one side or the other, simply that the French need not expect any support from them in arms, that they were neutral.

Q. And you were to have also some resolutions passed, or what did you do in that regard? A. I got resolutions passed, and sent them back to Carlton immediately.

Q. By? A. Mr. Andrew Peterson.

Q. Who came for that purpose? A. Who came down with me for that purpose? He was to take them back, if I could not go.

Q. What is that paper, Mr. Matherson (paper referred to before)? A. Those were resolutions that were passed at the meeting at St. Catharines that evening.

Q. And you considered in passing this that you were—

Mr. Osler.—Don't lead.

By Mr. MacLise :

Q. What relation do those bear to what you were instructed to get? A. Those were just exactly what I was instructed to get. Of course his was a little addition to that, about sending one to Riel.

Q. Did Mr. McKay say anything about showing these to the French?

Mr. Osler.—I must object. I want this examination to be conducted with some regularity. My learned friend must understand that I object to leading questions or anything which is not evidence on the issues.

Mr. Clarke.—I wish it to be perfectly understood that we want no privilege, we will accept none. We want simply our rights according to law, and when the learned gentleman sits there in all the dignity of his own importance and thinks he is going to shut us up he makes a mistake.

Mr. Osler.—I don't seek to.

By Mr. MacIise :

Q. As to the instructions you acted under, in those instructions was there anything with regard to these papers that were being gotten up being taken over and read to the French?

Court.—I don't think you can put that. You have got the instructions which are admitted to be in writing. You have the letter saying what was done. Then you have that paper "A" which are resolutions, and the witness tells you that was the result, but he says the latter part of the memorandum at the bottom was beyond the instructions.

Mr. MacIise.—It has already been given in evidence by the witnesses that these were to be given back to Major Crozier, and that was not objected to.

Mr. Osler.—Because I give no favors.

Mr. MacIise.—Leading questions were put by the Crown.

Court.—Was it brought to my notice?

Mr. Clarke.—I am not prepared to say so. At the same time your Lordship remembers one of the objections I asked to be noted.

By Mr. MacIise :

Q. At any rate, you held a meeting at Lindsay; did you state to that meeting what you were there for, and who sent you? A. I did.

Q. It is just in accordance with what you have already stated? A. Yes.

Q. And when you got there, the people had started for home and you called them back? A. I just met them as they were coming out of the house from service.

Q. Now, Mr. Scott spoke to the meeting which was held there, did he not? A. He did.

Q. What did the prisoner say? A. I can't give you his words, of course, but I can give you as nearly as I remember what he said.

Q. What was the substance of what he said? A. He said he thought it would be advisable if the volunteers who had gone from Prince Albert to Carlton should return home. Their absence from Prince Albert was endangering the settlement in two ways, first, there were so many armed men out of the settlement with arms, leaving the settlement that much weaker, and then the knowledge of their being up at Carlton to go and fight against the French and Indians or whoever were there getting to those people, they would naturally say, well, there are so many people away from Prince Albert, they are up here to attack us, come let us go down another way, take Prince Albert, take possession of the water-way. Now, under those circumstances, he said he believed it a most advisable thing that they should come home and act as a home guard for they should by all means protect Prince Albert. What is Carlton in point of importance in comparison with Prince Albert? Prince Albert is a large settlement with many women and children, they may be sacrificed, they may be slaughtered if the Indians are let loose upon us, inasmuch as an Indian outbreak is so greatly feared; if there will be an outbreak, we English half-breeds of this district will rise to a man and assist the Government to put it down.

Q. This was at the Lindsay school-house? A. This was at Lindsay.

Q. You heard his remarks at St. Catharines the same evening? A. Yes.

Q. Were they similar? A. Just similar, I could not give you anything different.

Q. These resolutions that have been shown you were not drawn up at the Lindsay meeting? The people there decided what, with regard to getting up resolutions? A. We did not complete the resolution there for this reason—I had to hurry from there down to St. Catharines church, in order to catch the people there before they would get home, so we decided some people from there should come down with us,

and we would draw up a resolution in the St. Catharines church because we had the whole night to do it if we wanted, and this resolution would then be forwarded to Carlton.

Q. And that was the way Mr. Scott and some others came to go? A. Down to St. Catharines.

Q. They were dispatched at what time? A. I should say I gave them to the man between two and three the next morning—Monday morning. He did not start off with them, however, immediately, he went with them about coming daylight.

Q. Now, had Mr. Thomas McKay not approached you, you would have held your services at Carlton, and you would not have been here to-day? A. That is just the truth.

Q. Did you consider that in doing what you did, you were guilty of treason or treason-felony or anything of that sort? A. No I considered that what I was doing was the best in the interests of peace, or I should not have done it.

Q. So that you consider that in trying to keep the people neutral you were only doing what you had been told, requested by the authorities to do? A. That is all, that is what I did.

Q. You would not have done it had you not had the idea that you were ordered by what, to do it? A. I would not have done it, had I not been ordered, as I was, by Major Crozier.

Cross examined by Mr. Osler :

Q. Did Scott speak more than once at the meeting, the first meeting that you were at? A. I can't recollect.

Q. Who was in the chair at that first meeting? A. I was.

Q. Do you remember who spoke first? A. I spoke first of course, explaining the object for which I called the meeting.

Q. Do you remember who spoke next? A. I am not certain who spoke next. I know Mr. Scott did speak.

Q. Do you remember who spoke at all? Give me the names? A. I remember Andrew Spence spoke.

Q. Do you remember what he said? A. I forget what he said.

Q. Do you remember who spoke? A. Mr. Scott.

Q. Anybody else? A. I can't remember that anybody else said anything.

Q. Surely there were more spoke than that? A. Of course, there would be little remarks made here and there, but no regular —

Q. Who made the set speeches of the evening? A. Mr. Spence, Mr. Scott, the prisoner himself, and myself.

Q. Now, you can tell me what you said, can't you? I have told you already.

Q. You can't tell what Mr. Spence said? A. No, I can't remember what he said.

Q. Or the purport of what he said? A. I can't just remember the purport. It just went on the same line of argument that I had taken.

Q. Well, you are able to recollect very distinctly a good deal of Mr. Scott's speech. A. I recollect that part that I have already given to you.

Q. You have talked that over, I presume, recently, as to what he had said? You have had occasion to refresh your memory on what he said? A. Yes.

Q. Now, it is pretty distinctly sworn here that he did say that it would be better for the settlers to remain neutral, and lay down their arms.

Objected to.

Court.—He may be asked in cross-examination was anything of the sort said as that arms should be laid down, and the French half-breeds and the police should be left to settle the matter between themselves.

Witness.—I have no recollection of that.

Mr. Osler.—Now, was there anything of that sort said by Mr. Scott at that meeting? A. Not to my recollection.

Q. Have you a recollection? Will you swear that was not said? In other words will you contradict Mr. Craig? Q. To the best of my knowledge, I say he did not assert that, and I am on my oath.

Q. Although you cannot remember a word of what Mr. Spence said in making a speech on the same occasion? A. Yes.

Q. That is sworn to very positively by Mr. Craig? A. I am quite aware of that.

Q. Will you undertake to contradict it on your oath? A. I undertake to stand by what I have asserted.

Q. Just answer my question?

Mr. Clarke.—I ask your lordship for the ordinary protection to this gentleman that is accorded to every witness in a court of justice. He is a man of education and intelligence, and I submit to your lordships that it is scarcely fair even for the purposes of a prosecution like this, to try and place words in that gentleman's mouth that he has never uttered. Now, I ask this I submit to your lordship that it is not a fair way of putting that question: "Will he undertake to contradict him?" If it was intended to contradict him, the law prescribes a means by which he shall do so, and I submit he cannot do it by any other means.

Court.—Has not a counsel, in cross-examining, a power to take a far wider range than on the examination in-chief?

Mr. Clarke.—He has under certain circumstances, but he has no right to suggest that which does not exist, not even though he represents the Crown.

Mr. Osler.—My learned friend has interfered with me twice in this cross-examination, and he knows, or ought to know, that to interfere in a cross-examination at critical points is highly irregular, unless the counsel cross-examining is clearly wrong. My learned friend's first interference was uncalled for, and I am now asking what is asked every day, whether one witness will contradict another. I am trying to see where the truth lies between the two witnesses, neither of whom I am sure are desirous of giving anything else than the truth to the court, but in fallible memory it requires cross-examination to elicit which is the believable account of the proceeding. I don't desire to impute any, and shall not impute for a moment any intentional wrong to the witness on the stand, nor do I desire my learned friend should do so to the witness Craig.

Mr. Clarke.—I did not do so.

Mr. Osler.—I would be very much obliged if my learned friend would not interfere, and I shall put my questions in as legal a manner as possible.

Court.—Could you show me some authority that in cross-examination where a witness has made a statement, he cannot be asked will you contradict so-and-so.

Mr. Clarke.—I am not prepared to give any such authority, but if your lordship will just remember after all this is a question of fact. It is not a question of law and the jury are the judges and not your honor.

Court.—But I have to say what is proper.

Mr. Clarke.—Your lordship is there, not to make laws but dispense laws surely, and I shall stand to my client if the whole Crown and Government are against me.

Mr. Osler.—We should be very sorry to hinder my learned friend in his proper course of doing his duty by his client.

Court.—Mr. Osler, you may ask the question.

By Mr. Osler :

Q. Now, will you undertake to contradict Mr. Craig's statement of what took place there at the meeting, in other words, will you measure your oath against his upon what took place there? A. If what I have already said contradicts him, it must be so, and I stand by it.

Q. That is argumentative—he has made an assertion of a fact, and you have made an assertion of a fact—it is quite consistent that he may have said both things—will you undertake to swear that he did not state what Mr. Craig swears that he did? A.

I understand you now. I did not understand your question before. I can't undertake to say that he never did say that, but I can swear that in my hearing he did not.

Q. You can swear that it is not in your recollection? A. In my hearing it was not. It is not in my recollection that he repeated any such thing, excepting those which I have given.

By the Court :

Q. If he did make it, it was not in your hearing, was that your expression? A. If he made that assertion, it was not in my hearing. I never heard him make it.

By Mr. Osler :

Q. Did Scott on that occasion leave the meeting before the resolutions were passed? A. I am not certain if he left before they were passed. I know he left before they were completed and signed.

Q. Why did he leave? A. I don't know.

Q. Was it because the meeting was not in accord with his views? A. No, I don't know what his reasons were.

Q. You have no idea? A. No.

Q. But when these resolutions were signed, he was not there? A. He was not present when they were signed.

Q. How did you come to notice his absence? I knew he was out of the house.

Q. Did you see him go? A. Because the meeting was pretty well dispersed—

Q. Did you see him go? A. I saw him go.

Q. What happened in the meeting, did he go? A. It was during the discussion about the resolutions. I can't tell you the particular—

Q. Did he move a counter resolution? A. No.

Q. Are you sure of that, Mr. Matheson? A. I don't remember of him moving a counter resolution.

Q. Don't you remember that he moved a counter resolution, and he could not get a seconder, and he got angry and left; do you remember anything of that kind? A. I don't remember, he may have had a counter resolution.

Q. Will you swear he did not? A. I will swear to the best of my knowledge.

Q. Will you swear that he did not? A. I will, unless my memory has failed me.

Q. Your memory has failed you as to Spence's speech, that is all gone? A. I told you that Spence took up the same line of argument as I did.

Q. You told me also that you could not remember what he said? A. I could not remember.

Q. You have repeated, so to speak, Scott's speech? A. And I have repeated mine, and I told you Spence took up the gist of those arguments.

Q. Now do you say that Scott was in accord with the rest of the meeting? A. He was in accord with the rest of the meeting, for neutrality was what I was asked to come down for.

Q. What more did he want? A. What more he wanted was what he suggested, the advisability of the volunteers returning home.

Q. And laying down their arms? A. No, not laying down their arms.

Q. When were you asked to state your recollection of what took place at that meeting? When was it? When were you asked to state your recollection? The meeting we are speaking of is the meeting at which Mr. Craig was secretary, how long did that meeting continue? How long was it after you called order, before it closed? A. It must have been probably four hours.

Q. How long did you speak? A. I don't know.

Q. Ten minutes? A. I probably spoke more than that.

Q. Twenty minutes? A. I dare say, taking it altogether, I spoke nearly an hour.

Q. You ought to have preached sermons enough to know that half an hour was all that folks can stand? A. Yes, but it was not at one time.

Q. Well you spoke altogether an hour? How long did Scott speak? A. It is almost impossible for me to tell you.

Q. You are telling me very circumstantially what he said, give me an idea of how long he spoke, half an hour or an hour? A. He probably spoke over half an hour.

Q. How long did Spence speak? Did he speak more than half an hour? A. He spoke several times, I can't remember.

Q. How much altogether? A. He may have spoken an hour.

Q. Well what was done the rest of the time, four hours altogether, surely somebody else spoke in the four hours, four hours for two speakers would be a terrible length of time even if my learned friend was one of the parties—now who else spoke? A. I don't remember any others except Mr. Craig, of course.

Q. Well, Mr. Craig spoke how long? Can you tell how many resolutions were proposed and who proposed them? A. Mr. Craig proposed the resolutions.

Q. Who else proposed another resolution? A. Nobody.

Q. Why, you would never discuss four hours without an amendment would you? A. We did it all the same, whatever length of time the discussion was.

Q. You have told us it was four hours, what time was it you got through with the meeting? What time of night? A. It must have been nearly midnight.

Q. And where did you go from that? A. I went home.

Q. We are speaking of the St. Catharines church meeting, you went home from that? A. Yes.

Q. When was the next meeting held? A. The next meeting was held the next day.

Q. At what time? A. About 11 in the forenoon.

Q. Who was there, was Scott there? A. No, he was not.

Q. Now, in holding these meetings, at the instance, no doubt, of Major Crozier, there was, I believe, some question whether the English half-breeds would not rise? That was the danger was it not? The expected danger you were seeking to avert was the rising of the English half-breeds? A. I don't know that we had any fear of English half-breeds rising against the Government.

Q. What was the use then of holding the meetings? A. Well, as I understood, the point was this, that the French were under the impression the English half-breeds would assist them in arms, and if they were assured that they would not assist them, it would be the means of them quietly dispersing and going to their homes.

Q. That was the object of the meeting? A. That was the object of the meeting.

Q. And your instructions were for that purpose to get them to remain neutral? A. Yes.

Q. That was why the word "neutrality" was made use of? A. Yes.

Q. The object being to show that the French could not get any aid from the English? A. Yes.

Q. Do you say there was any danger of them giving them any aid? A. I don't think there was. I don't believe there was.

Q. And I suppose there were a good many of those your own people, your own congregation? A. Yes.

Q. So that you would, to some extent, know the feeling of the country there? A. Yes.

By Mr. MacIise :

Q. You were present during all the time that Mr. Scott was there were you not? A. Yes.

Q. Now, the learned counsel for the Crown has referred to the matter of this matter being brought up to your recollection. Now, you visited Mr. Scott when he was in prison did you not? A. I did.

Q. Did you have any conversation with him then about preceding events so that matters would be retained in your memory? Did you have any discussions with him then? A. Well, we never went into those.

Q. Still your memory dwelt on those things did it not? A. Yes.
Q. More particularly what Mr. Scott said, on that account? A. Yes.
Q. Did you not visit him several times in prison in Prince Albert? A. I visited him very frequently.

HILLIARD MITCHELL, sworn:—

Examined by Mr. Clarke:

Q. Where do you reside? A. Duck Lake.
Q. In the North-West Territories? A. Yes.
Q. How far is that from the place known as the Ridge? A. Twenty-eight or thirty miles.
Q. Do you know the prisoner? A. Yes.
Q. How long have you known him? A. I have known him since the year the treaty was made with the Indians, and that was in 1876, I think.
Q. Are you aware of the relations that he has borne; or has he borne any close relations with the half-breeds of the country? A. I know that his wife was an English half-breed.
Q. I believe she is now deceased? A. Yes.
Q. How has Thomas Scott been employed or engaged during the time you have known him? A. He was engaged by Stobart & Co., and then by Stobart, Eden & Co.
Q. By the same firm? A. The same firm, yes.
Q. Do you know his place of residence before he was imprisoned recently?
A. He has a farm on the Ridge.
Q. What kind of a place is it or was it, rather? A. An ordinary homestead.
Q. Do you know of what extent? A. I suppose a half section, I don't know.
Q. Can you state to the court and jury whether he farmed extensively? A. He farmed extensively. I always understood he was one of the most extensive farmers in the district.
Q. You passed his place frequently I suppose? A. I have been over his farm frequently.
Q. Will you state to the court and jury if you had occasion, about the latter end of March last, to go to Batoche? A. I went to Batoche.
Q. State to the court and jury when you went to Batoche and why? A. There was a disturbance down there, and I went to see what the disturbance was on Thursday, 19th March, I think, in the evening. I am not sure about the date. It was a Thursday.
Q. Was that the only time you went? A. I went on Friday, and on the Saturday following.
Q. Did you meet anybody you knew, when at Batoche, on any of these three occasions? A. I saw French half-breeds there that I knew.
Q. Did you see the prisoner? A. I saw the prisoner there on Saturday, on the one occasion.
Q. Will you state to the court and jury where you saw him, and who was present? A. I saw him in Riel's council chamber.
Q. Do you recollect if anybody was with him, and if so, whom? A. Two people were with him. One was Mr. Ross, and I don't remember who the other was.
Q. Had you any conversation with the prisoner when you were there? A. Yes.
Q. Well, have the kindness to state to the court and jury what took place between you, what conversation? A. I asked the prisoner what he was doing there—

Mr. Osler.—That is not evidence. What a prisoner states is not evidence, what he is doing there.

Mr. Clarke. His own account of what he is doing there, together with the personal knowledge of the party who was present, if that is not evidence—

Mr. MacIise.—They charge him with conspiring there at Batoche.

Mr. Clarke.—It is not what was done there, it is what was said, and I think the jury will want to know that.

Mr. Osler.—What was said, your Honor, by him, what Mr. Mitchell heard him say to the others who were concerned in the rebellion, I am not going to object to, but when a man is accused of crime, I have yet to learn that when he makes his excuse or his statement, when he is asked what he is doing there—I have yet to learn that that is evidence. I am quite free to admit, I shall not object, at all events, to Mr. Mitchell's telling what he heard him say to others, but what he said in answer to Mr. Mitchell's question as to what he was doing there, is not evidence.

Mr. Clarke.—My learned friend puts this in so skilful a manner that it must strike your Lordship with what peculiar point and force. He says when he was there with the others engaged in the rebellion—now we have not a word about rebellion from this witness, and I submit to your Lordship it is a most unfair attempt to make it appear there was rebellion, until we have it from the witness. I ask my question to be taken down, and I ask for your Lordship's ruling, and I know exactly what will be the result.

Court.—It is very clear the witness has not spoken of rebellion. Now, you may ask him what he was saying, what was said by the prisoner and what was done by the prisoner there.

Mr. Clarke.—If the prisoner and witness were present at a place in Batoche on a certain day, surrounded by others, I ask the witness, and I am legally entitled to ask him, what the prisoner said. That is what I ask him. What did the prisoner say?

Court.—As far as you put your last question you are right, but don't go beyond it.

Witness.—The prisoner said he had been sent there by the English half-breeds to find out the cause of the disturbance and get them to stop and disperse, and that if they did not stop they would get themselves into trouble, and they were endangering the lives of the settlers. That is all the prisoner said to me.

Q. Did you see any of the parties engaged in that disturbance when you were there; did you see any of the parties who were supposed to be leaders among the French half-breeds? A. I saw the whole council, the council that was assembled.

Q. Did you see Louis Riel? A. I did.

Q. I understood you to say that you went there for the purpose of trying to find out if there was any disturbance, and what it was about? A. I was there trying to make peace.

Q. And you met the prisoner there? A. Under similar circumstances.

Q. They have not arrested you for misprision of treason? A. No, they have not.

Q. Would you have the kindness, Mr. Mitchell, to state whether you went all these three several times that you have mentioned of your own accord, or if at any of those times you were requested to go by any person in authority? A. Major Crozier asked me if I would go over on the first occasion and see what these fellows were up to.

Q. The prisoner is charged with giving aid and comfort to those people. You were there; did he comfort them much in your presence? A. All the prisoner said to me is what I have already said.

Q. You say that you saw Ross there with him? A. Yes.

Q. Now, you know the prisoner for some years, you have stated? A. Yes.

Q. Do you know if he speaks the Cree language? A. I don't think he speaks much Cree language.

Q. Do you know if he speaks French? A. I know he does not speak French.

Q. Do you know the witness Astley who appeared here? A. I do.

Q. Is it to your knowledge that that gentleman, Mr. Astley, is applying for a Government situation? A. I don't know anything about it. I am not aware of the fact.

Q. Did you see a gentleman there by the name of McKay? A. Mr. McKay went with me on the third occasion. That is on this particular occasion we are speaking of.

Q. That is the same occasion when you saw the prisoner there? A. Yes.

Q. Did you hear the witness McKay make any statement with reference to where the English half-breeds were? A. I don't know. I did not take any notice of what Mr. McKay was saying. He was speaking in Cree the greater part of the time, to the best of my recollection.

Q. Speaking in Cree to whom? A. To the council. When he spoke to Riel he spoke in English.

Q. Going there did you hear any conversation with Mr. McKay about where the English half-breeds were?

Mr. Osler.—It is not evidence, what Mr. McKay said.

Court. If the prisoner was there it would be.

By Mr. Osler:

Q. Mr. Mitchell, did you hear any of the conversation that Scott held with parties whom he had gone to see? A. He held no conversations with anyone but myself during the time that I was in the council chamber.

Q. So, whatever his errand had been, you did not hear him delivering it? A. I don't recollect him speaking to anybody but myself.

Q. Then had he finished what he had gone to do at the time you met him there? A. I did not ask him.

Q. So that what you stated to us is not what he was stating to the parties surrounding him, but what he stated to you in answer to a question? A. He stated that to me.

Mr. Osler.—So you see, your Honor, it is not in evidence, and it ought to be struck out.

Mr. Clarke.—I submit to your Honor it is evidence.

Court.—At a certain time I shall have to express an opinion upon that.

By Mr. Osler:

Q. What time of day or night was it you saw him there? A. It might have been about mid-day.

Q. And you had gone at the instance, I believe, of Major Crozier? A. Yes.

ALBERT AUSTIN PORTER SWORN:—

Examined by Mr. MacIsé:

Q. Where do you live? A. Prince Albert.

Q. What is your occupation? A. Telegraph operator.

Q. In the service of? A. The Government of the Dominion.

Q. For how long? A. Since January 1883, the time the Dominion line came in from the south.

Q. Do you remember the 22nd March last? A. Yes.

Q. Where did you go on that occasion, who ordered you? A. Capt. Moore sent me an order to—Capt. Moore of the North-West mounted police sent me an order to go up the Ridge—McFarlan's creek, at least.

Q. How far from Prince Albert? A. I suppose twenty or twenty-five miles from Prince Albert.

Q. As an——? A. As an operator. I was to transmit messages that would be sent from Carlton to the authorities in Prince Albert and *vice versa*.

Q. By scouts from Carlton and from there by telegram? A. Despatch them to Carlton.

Q. What sort of an office had you there? A. A bell tent and a wire running to it.

Q. Do you remember the occurrence of the battle of Duck Lake? A. Yes, I remember.

Q. What occurred after that, during the night? A. We got orders to break camp and remove to the Ridge, near Prince Albert, and tap the telegraph line at the Ridge, or near the Ridge.

Q. At whose house? A. I tapped the line into the house of Mr. William Miller. It was about four o'clock in the morning I think when we got there.

Q. How far was that from Tom Scott's place? A. I suppose it is three-fourths of a mile probably. That is my idea of the distance.

Q. He is the nearest neighbor, at any rate, to Scott? A. Yes.

Q. Do you know the prisoner Thomas Scott? A. Yes.

Q. What took place between him and you on the 27th, after Duck Lake fight?
A. He came into the telegraph office and told me—on the 27th, after the Duck Lake fight,—

Q. He gave you a telegram—

By Mr. Osler:

Q. Where is the telegram? A. I have not it with me. It is destroyed with all the rest of the messages. It was sent to Capt. Moffatt at Prince Albert.

By Mr. MacIise:

Q. What was the effect of that, and what was the result afterwards? A. He dictated to me and I wrote on a piece of paper.

Mr. Osler.—This is not evidence.

Mr. MacIise.—Suppose you were charged with being before and after a certain time, conspiring with rebels?

Court.—The date is not material in a charge of this sort.

Mr. MacIise.—Suppose during that time you are proved to have made an offer to supply troops, wouldn't that be evidence? On the 27th, and for several days before and after?

Court.—No, I think not. The answer that it was proposed to give was that he dictated a message offering his services. From Miller's house to this man.

Mr. Clarke.—The question I want to ask is this, if on the day in question the accused went to him as Government telegraph operator at the Ridge and through him as telegraph operator telegraphed a message to the highest military authority, offering to raise a troop of men in defence of the country, and against the rebels? that is my question.

Court.—I think you may put the question, generally, if he did, so as to show his character if he did, without reference to date.

Mr. Scott.—In the next place, it is a leading question which you should not ask.

Mr. Clarke.—I humbly ask your Honor to take my question, and then we will have a legal decision upon it.

Mr. Osler.—Surely it would be better for my learned friend to ask what was done. In the way it is put now, it is open to the objection of putting words in the witness' mouth.

Mr. Clarke.—I ask my question to be taken, and a ruling upon it.

By Mr. MacIise:

Q. What took place? A. Mr. Scott came there and asked me to write at his dictation, the following message. As far as I remember, he said previously that he had heard of the Duck Lake fight, and he told me to write the following message to Captain Moffatt, that he could raise from 150 to 200 men armed and assembled by twelve o'clock that day at the Ridge, for the purpose of fighting against the Indians and rebels in defence of Queen and country, that is the gist of the message.

Q. What did you do with it? A. I transmitted it to Prince Albert.

Q. Did you receive any acknowledgment? A. I received the ordinary acknowledgment of telegraph operators, that it was received correctly.

Q. To whom was it addressed? A. Captain Moffatt.

Q. What position did he hold then—Captain Moffatt? A. Inspector in the North-West Mounted Police. He was then, I think, commanding officer. It was Captain Moffatt, commanding officer, Prince Albert.

Q. What answer did you get or what discussion was there over the wire with regard to this proposition? A. I don't know whether I am permitted to state that or not. I am a sworn operator, under oath.

Mr. Osler.—That is not evidence. The answer to Scott, I have no objection to going in, but not any discussion between the authorities among themselves as to what should be done with it, that would not do.

Mr. Clarke.—I don't think, with all the desire to do anything I can for my client, I don't think we would be justified in tapping the line or asking what the authorities were discussing between themselves.

By Mr. MacIise:

Q. What answer was received? A. There was no direct answer; there was an acknowledgment that it was received correctly.

Q. Well, did you hear anything of Mr. Scott after that? A. Yes. I saw him while I was there, nearly every hour or so.

Q. What took place between you? A. There was nothing particularly took place. There were discussions and talking. I don't remember exactly any particular thing taking place.

Q. Did he conspire with anybody in your presence, to bring about rebellion or to aid or abet rebellion during that time? A. I never knew anything of the kind.

Q. Wasn't he in and out of the office most of the time? A. He was there frequently. Yes.

Q. Did you see anything on his part that would bear out the charge that was laid against him?

Mr. Osler.—Surely you have gone far enough with these irregular questions.

Mr. Clarke.—You've charged him with a vague charge.

Mr. Osler.—The Crown must rest upon the overt acts they have proved, and you must displace those overt acts.

Mr. MacIise.—Conversations of this kind have been given by the prosecution.

By Mr. Osler:

Q. How long have you known Mr. Scott? A. Ever since I came to Prince Albert.

Q. How long is that? A. Three years this winter.

Q. Been intimate with him? A. No, I have never been intimate with him.

Q. The country was in a considerable state of alarm immediately after Duck Lake? A. Yes, there was a certain amount of excitement.

Q. They were afraid of the Indians? A. Yes.

Q. And afraid that the settlement was going to be in trouble? A. That was the general complaint.

Q. It was after it was known that the people had been killed at Duck Lake that this offer of Mr. Scott's was made? A. It was on the 27th—yes, that would be after the Duck Lake fight which was on the 26th.

Q. The country was in a great state of alarm? A. Yes, there was considerable excitement.

HUGH ROSS sworn:—

Examined by Mr. MacIise:

Q. Where do you live? A. Prince Albert during last winter—near Prince Albert.

Q. Do you know the prisoner Mr. Scott? A. Yes.

Q. What has been your acquaintance with him? A. I know him since 1872.

Q. Where was that? A. Princess River.

Q. In the service of the—? A. Hudson Bay Company.

Q. You are both in the service of the company? A. Yes.

Q. You left I think about the same time as he did? A. Yes.

Q. What occupation do you follow? A. Freighter generally and farming.

Q. Where is your farm? A. Medicine Hat.

Q. Do you know the settlement called the Ridge? A. Yes.

Q. What position does it hold as to Batoche and Prince Albert in case an attack had been made during the rebellion, an advance had been made from Batoche on Prince Albert? A. It is right on the way.

Q. As to trails? A. Yes.

Q. The trails from Carlton and Duck Lake and Batoche all——? A. Lead above that, they all come into one there.

Q. If an attack had been made, what would have been the effect on the Ridge settlement? A. They would stand a poor chance, I guess.

Q. What was the state of the mind of the people of that settlement at that time, about that time on that account, on account of their position? A. The families were getting scared. They wanted to have a meeting of the people, and see what they would do.

Q. This was in the winter, and when there are not so many trails open. There are not so many trails open there in that country in winter as in summer? A. No.

Q. What sort of farm has Mr. Scott there, and what has been his occupation for some time? A. A farmer, and he has about 300 acres.

Q. Under cultivation? A. Yes, about that, as near as I can judge, Mr. Scott has.

Q. Large or small quantity? A. Large, I should say.

Q. Now, what kind of a settlement is that, what kind of people surround it? A. English and Scotch half-breeds.

Q. Almost entirely, is it not the case? A. Yes, with a few Canadian settlers.

Q. You went to live with Mr. Scott sometime lately? A. Yes.

Q. How long ago was it? A. It was about 4th December, I believe.

Q. Of last year? A. Yes.

Q. How long did you stay? A. Until after the Batoche fight, a few days after that I left there.

Q. Of course you have been away and back in the meantime I suppose? A. Yes, I have been away.

Q. Now you were living at his house then after 4th December? A. Yes.

Q. Was he away from you any part of the time, or were you with him a good part of the time from that on to the end of the year? A. The most of the time I have been along with him, mostly all the time, until I started.

Q. There were parties came there to see him, did he hold private discussion with them? A. I never heard any. I have been always in with him there, when any persons came in, I have been always in his company.

Q. Now the half-breeds in that section of the country, in what regard do they hold Mr. Scott; what influence has he over them? A. They look on him as a leader of the people there.

Q. The half-breeds look up to him as their leader? A. Yes.

Q. A leadership is brought about by himself is it? A. I can't say.

Q. Isn't it a fact that it is on their application and on their seeking? A. Certainly, it is on theirs.

Q. Now you say that he held no private conversations from the time you went there? A. No, none that I know.

Q. Well any conversations that you heard, in any expressions you heard Thomas Scott make use of, from 5th December, until it was known that the rebellion had broken out after the battle of Duck Lake the fight there, did you ever hear anything that you thought was in any sense treasonable, or what did you hear? In what way did he speak of public events?

Mr. Osler.—What did he say? If that is evidence, but it is not evidence, it is no answer to any evidence in chief, that class of question has already been ruled on.

By Mr. MacIise:

Q. Well did the prisoner ever make use of any expressions to you favorable to the rebellion publicly or privately?

Mr. Osler.—I object to the question, a moment's reflection will surely show it is not admissible.

Mr. MacIise. —It would, in ordinary cases, but not in this.

Q. From the time you went there on the 5th December, till the 21st March, until the time you went up with him as a delegate—did he go to Batoche during that time to the French settlement? Do you know of his going to Batoche? A. No, I don't know of him going there until he went along with me.

Q. Now, do you remember the 20th March? A. Yes.

Q. What took place on that day? A. There was a meeting held, on the night of the 20th at Lindsay school.

Q. How did it come to be held do you recollect? A. Because the people wanted to know the particulars of the trouble that was up at Batoche. There were so many reports, and contradictory reports had gone around that they could not believe, so a meeting was called.

Q. And what took place there? The meeting was called to order and who was elected chairman and who secretary? A. Tom Scott, and William Miller.

Q. Scott was chairman and Miller secretary? Was he? A. Yes.

Q. Well, what did Mr. Scott say; do you recollect? A. Well, Mr. Scott did not say much; there was not much said at the meeting that night only to know the particulars from Batoche, and it was proposed by the meeting that there would be a delegate appointed to go to Batoche, and we were elected; Thomas Scott and I and William Paquin, and then there was a discussion about a room.

Q. Now it has been stated that Mr. Miller made a speech there, did you hear the evidence of Mr. McNiven this morning? A. Yes.

Q. Did you hear the remarks that Mr. McNiven made to the effect that Mr. Miller had stated there was a rebellion among the French? Do you remember McNiven remarking to that effect? A. I think he did say something about it.

Q. You heard what Mr. Miller said, if he said anything, on that occasion? A. I don't understand you.

Q. Mr. McNiven has stated in his evidence this morning, that during that meeting Mr. William Miller stated as there was rebellion among the French, we should find delegates to find what was the matter; now, you heard Mr. McNiven's evidence? A. Yes.

Court.—His statement was this, that as the French half-breeds were under arms steps should be taken.

By Mr. MacIise:

Q. What did Mr. Miller say? A. I could not say.

Q. Is that statement of Mr. McNiven true or untrue? A. I don't remember such a thing.

Q. You were present at the whole meeting? A. I was present, but I don't remember hearing that.

Q. Mr. McNiven also stated there were cheers after the meeting was over; after or towards the close of the meeting there were cheers, three for the delegates and three for Riel; what do you say about that? A. Well, there was no cheers while the meeting—after the meeting was dismissed there were cheers then from the crowd as they went out through the doors. I could not say what it was.

Q. You don't know what those cheers were for? A. No, I don't. There was no cheers while the meeting lasted; after the dismissal of the meeting there were cheers.

Q. Did you hear Riel's name mentioned at all? A. I did not. It was outside. There was a large amount of people there.

Q. Do you think if it had been mentioned you would have heard it? A. I should think I ought to hear it, if it was mentioned there.

Q. The cheers that there were, were, in fact, just the ordinary cheers that people burst out into, going away from a meeting? A. Yes, as far as I know, I have not heard any cheers for Riel.

Q. Now, do you remember Mr. Scott's going away during February to Qu'Appelle? A. Yes.

Q. When did he return—about what time—from Qu'Appelle? A. The latter end of February—I could not say, I am sure.

Q. How long was it then before this meeting? A. I think it was the latter end of February, if I am not mistaken, or the first of March.

Q. When did he leave for the capital, now you are forgetting, when did you leave yourself for the capital? A. The latter end of January.

Q. And when did you return? A. First March.

Q. Now, when did Scott leave? A. It was after that, Scott came back.

Q. How long after that? A. I guess eight or ten days. I think I was at his place eight or ten days after.

Q. Do you remember the time he came back? Until this meeting you were stopping right at his house, were you not? A. Yes.

Q. Do you remember whether he made a visit to Prince Albert during that time or not? What are the facts in regard to that? A. From the time he came back?

Q. Up to this meeting of the 20th, on Friday? A. He has only been once down there, and I have been along with him. He went down with flour, flour that he brought in.

Q. What time was that? A. That was the next day after he came in.

Q. That would be then about what time? You say you came back on the 1st March, and about eight or ten days after that, Scott came back? A. I should say about the 12th March, as near as I can remember.

Q. Between that time, the 12th and the 20th, the time of the meeting, where was Scott? A. Always at home.

Q. Did you hear the evidence of Mr. Astley this morning to the effect that the day before the stores were looted on the 17th March, he saw Mr. Thomas Scott in Prince Albert? A. I have not.

Q. Did you hear what Mr. Astley said about Thomas Scott being down to Prince Albert jumping out of a sleigh or the 17th March, the day before the looting of the stores, and going to Capt. Moore and having a conversation with him? A. Yes, I have heard so.

Q. Now, you have already stated that from the 12th to the 20th Scott was not at Prince Albert? A. No, I have been there all the time, and I have never seen him go down until he was taken prisoner down in Prince Albert—about two days before he was taken prisoner, I was down there.

Q. Well, what would you say with regard to that evidence of Mr. Astley's—that it was true or untrue? Would you contradict that evidence?

Mr. Osler.—That is not the right way to get the evidence.

By Mr. MacIise :

Q. Where was Thomas Scott on the 17th March? A. Well, he must have been home, because he has never been in Prince Albert since that time till after. If he has, it is unknown to me, and I have been there all the time. He must have gone down there in the night, and then he could hardly get down there in the night and be back in the morning without my knowing it.

Q. Astley stated it was in the afternoon he saw him there? A. I can't say anything about that.

Q. You know that Mr. Scott was home in the afternoon, don't you?

Mr. Osler.—I desire the witness should not be led unnecessarily.

By Mr. MacIise :

Q. Now, what was said by Mr. Thomas Scott at this meeting on the 20th March? Do you recollect what was the sense of what he said? Do you recollect he called on some of them for a speech, did he not? A. He did.

Q. Who was that? A. I think the first was McNiven.

Q. You have already told us that the work of that meeting was the sending of delegates, and very little discussion. Well, whom did they send as delegates, and what were they sent for? A. Thomas Scott, myself and William Paquin.

Q. You have already stated that Mr. Miller was secretary of that meeting. Did he take any notes? A. I don't think he has taken any notes. I think it was on a scrap of paper—scraps of paper taken in a hurry.

Q. When did you start for Batoche? A. On the morning of the 20th.

Q. What day of the week? A. Saturday morning—the 21st I mean.

Q. What time in the morning? A. About 1 o'clock.

Q. What took place after that during the day? Where did you go, and what took place there? A. We went to Batoche.

Q. Did you see anybody on the road? A. No, just met one sleigh. I don't know who it was. I think that was all we met on the road. It was dark.

Q. When you got to Batoche, what took place there? A. We seen there was trouble there.

Q. Where did you go to? A. We went up to Riel's house.

Q. Is that where you went to first? A. No.

Q. Where did you go to first? A. I think it is to Fisher's store, I am not sure.

Q. Then you went on to the council house, did you? A. Yes.

Q. And what did you see there? Where did you see Mr. Riel first there? A. About twenty yards, I suppose, from the house—he came out to meet us.

Q. What conversation took place between him and Mr. Scott, or between him and you as delegates? A. Mr. Riel said that I hope you have come to make peace, to save bloodshed, and Thomas Scott said that he just came here as a delegate with a note, and that note was given to Riel, which he read, and he wanted to bring back in writing the truth of the trouble.

Q. But what did he say in answer to Riel's question about preventing bloodshed? A. He said if he could do that he would be very willing to do all that was in his power.

Mr. Osler.—Who said that? A. Tom Scott.

Mr. MacIise.—Mr. Scott asked him what the cause of the trouble was, didn't he? A. Yes.

Q. And what did Riel say? A. He said it was on account of Lawrence Clarke coming in there, coming through there from having been down east, I think, down at Troy anyhow, and came through there, and the half-breeds wanted to know what the Government was going to do towards their grievances, and he said that what they were going to get was powder and ball, that there was 500 police left Hoodo to come and wipe them out.

Q. When had they left Hoodo? A. That morning of the day that Lawrence Clarke went through there. I could not say what time it was. It was a few days before that. That is the conversation that he told us anyhow.

Q. He said something about expecting somebody to come there, didn't he?

Mr. Osler.—It is desirable to get what was said without suggesting.

Mr. MacIise.—What did Riel say after that? Did he say anything about McKay and Mitchell? A. Yes, he kept us there. Their was three scouts, French half-breeds, came from Duck Lake, and said that Mr. Mitchell and Thomas McKay were coming, and the scouts brought him word that the half-breeds (English and Scotch) were joined at Carlton.

Q. Did these scouts mention any conversation that took place between them and Thomas McKay? A. The scouts had brought in word from Duck Lake.

Q. And who had the scouts come from? A. From Tom McKay.

Q. What was it that they brought as coming from Tom McKay? A. They told him that the English half-breeds were in Carlton to join Crozier.

Q. Who told him?

Mr. Osler.—You can't give what the scouts said, surely?

Mr. MacIise.—Who told? A. That is what the scouts said.

Q. What did Riel tell you? A. Riel told us we would have to stay here, or else we were playing a three-fold game on them, or else Tom McKay must be a liar, so we had to stay there until Tom McKay came in.

Q. So that the result of your journeying there was this? A. Till the scouts came in, we were detained.

Court.—The simple fact was that they were detained until McKay arrived by reason of the scouts' story? A. Yes.

Q. Did Riel make any threat, and what was it? A. He told me Tom McKay—

Q. Did he make any threat to you?

Mr. Osler.—What did he say?

Mr. Maclise.—What did he say about Nolin? A. He said they had sentenced Nolin. He was very hot or very mad, as you call it, because we came there on the same errand as Tom McKay, with a different view of it.

Q. What did he say about Nolin? A. He said they had sentenced Nolin, and what could they expect?

Q. Sentenced Nolin to what? A. To death, to be shot.

Q. Where was Thomas Scott during the time you were there all day? Was he with you, out among others? Or how, or what? A. He was with me all the time, along with the other delegates.

Q. Does Thomas Scott understand Cree or French? A. No.

Q. Did Thomas Scott after that say anything to Riel, and what was it; about what he would do? A. He said he would have nothing to do with him after he took up arms, but as far as he was in any legal manner, it would be all right, but when he took up arms, he wanted to have nothing to do with him whatsoever.

Q. Did he speak about constitutional agitation? A. Yes.

Q. And what did he say? A. He said he was willing to do anything he possibly could to get the rights of the people.

Q. In a legal constitutional manner? A. In a constitutional manner, not any otherwise.

Q. Now did he say anything about, in case there was an Indian uprising? Did he mention anything about the Ridge people? A. Yes.

Mr. Osler.—You are leading him all the time, it is awful.

Court.—Was there anything more passed?

Mr. Maclise.—Q. Was there anything more took place between them about letting the people know? A. Yes.

Q. Well, what was it? A. Thomas Scott wanted to know from Riel if the Indians would come down there to let them know around.

Q. For Riel to let them know beforehand? A. Before they would get down there and go right through the people, as it was right on their way.

Q. When did you leave Batoche and where did you go to? A. I went back to the Ridge.

Q. When? A. Saturday evening.

Q. What time? A. About four o'clock.

Q. What time did you get home? A. About eight.

Q. And you went to Scott's house? A. Yes.

Q. When was the next meeting held at Lindsay after you got home on Saturday night? A. Monday night.

Q. Were you at church next day at Lindsay? A. No I wasn't at church.

Q. You say there was a meeting Monday night? A. Yes, Monday some-

Q. Who was chairman, and who was secretary at that meeting, do you recollect? A. I think it was Thomas Miller secretary, I am not sure, I could not say.

Mr. Maclise.—There were some resolutions passed there, a series of resolutions, I have made attempts to get them, they were sent to Major Crozier, and handed over by him I believe to the prosecution and I have served them with a notice to produce those, concerning meeting 23rd March, signed by a very large number of people.

Mr. Osler.—We have a paper which may have come from Major Crozier, a copy, that is all we have; we don't know its authenticity, and it is marked a copy "L"—it came from Riel's possession, from Batoche.

By Mr. MacIise :

Q. Well, does that show what was done on that day? Look that over; do you recollect anything of that kind being passed on that day? A. Yes.

Q. That was to be sent to whom? A. To Major Crozier.

Q. Who went with it? A. William Miller, I believe.

Q. And who else? A. Adams.

Q. Now, you were at that meeting where the speeches were made, was the speech that was made by Thomas Scott or anything he said to the effect—what did Thomas Scott say? A. He was speaking in a legal manner to get their rights in a legal manner, but not to take up arms, that was the whole of the meeting.

Q. Did you see the jail that Mr. Scott was kept in after being taken down to Prince Albert? A. I did.

Mr. Osler.—Surely this has nothing to do with the issue here.

Mr. MacIise.—He was arrested and detained three months without charge.

Mr. Osler.—If he is improperly charged, there is a remedy.

By Mr. MacIise :

Q. Whose signature is that to exhibit "H"? Who signed that? A. I did.

Q. Where did you write that? A. Down in a law office in town.

Q. You positively swear that you wrote that? A. Yes, I swear I wrote that.

Q. Do you see that paper "6" with name below, who do you think signed that name there? Have you any idea of who signed it? A. Thomas Scott.

Q. Would you think Thomas Scott signed that? A. He might, and he might not. It is pretty hard—I could not swear.

Q. You remember the time of the battle of Duck Lake, do you not? A. Yes.

Q. Do you remember when Thomas Scott was made prisoner after that? A. Yes.

Q. You were left in charge of the place, I think, you stayed at the place? A. Yes.

Q. What took place there at Scott's farm—

Mr. Osler.—What has that to do with this case? Surely that is not, and cannot be evidence.

Q. You have known Mr. Scott, I think, for some thirteen years or so? A. Since 1872.

Q. You are not any relative or connection of his? A. No.

Q. And what was your position when you were up there, from December till March—were you hired, or what were you doing, living there? A. I was living there, and I went down to Troy for freight.

Q. Were you just stopping there as a friend, or were you hired? A. No, I was just merely stopping there; it was a good place for my horses.

Q. Just stopping there, doing what freight you could? A. I just went on one trip down to Troy.

Q. What then took you there? Were you working for your board or paying for your board, and doing work or were you putting in the winter there, or what? A. I was just putting in the winter there.

Q. And doing nothing? A. I was freighting. I went down to Troy.

Q. That took you how long? A. A long time, about two months. The snow was pretty deep.

Q. You were away all what month. You took two months; when did you get back? A. I got back—

Q. About the 8th March, wasn't it? A. Yes.

Q. So you would be away all February, you got back the 1st of March or latter end of February, so you would be away all January and February on that freighting bee? A. Part of January and February. It would be about that—two months.

Q. Was Scott with you freighting? A. No.

Q. Well, you gave me an impression, I don't think you intended to do it, perhaps, that you and Scott almost slept together from December till March, that is not so; is it? A. I did not say it.

Q. You seemed to say you were with him all the time, that he could not go anywhere without your following as a shadow? A. Not at all.

Q. You were in fact, only about four weeks at Scott's altogether, from early December to early January? A. Oh, I have been more than that after I came back.

Q. But you were only about four weeks there? A. About four weeks.

Q. And during that time you went into Prince Albert, didn't you during the time you were there, commencing 4th December. Did you go into Prince Albert? A. Yes, I went in to see Prince Albert.

Q. Three or four times? A. I could not say how many times.

Q. Surely you would want a little Moosejaw beer at Christmas? A. Not the kind of beer they had there.

Q. Then in March, what were you doing, after you came back; can you tell me? Where were you on the 1st March, or 2nd March? A. I guess I would be in on the way coming to Prince Albert, pretty close around there.

Q. Well, what did you do the first day after you got there? After you got to Prince Albert? A. I came back to the Ridge.

Q. And what did you do when you were at the Ridge? What did you occupy yourself in doing? A. In looking after the feeding of the horses.

Q. That is all you had to do? A. All I had to do.

Q. And all you did? A. All I did.

Q. And what was Scott doing, watching his horses and stock? A. He was not there at the time, he was down at Troy.

Q. Did you get a letter from Riel at the time that you were over there, did you or Scott or any of that delegation, get a letter? A. There was a letter came there.

Q. A letter that you could recollect the terms of? A. I think so.

Q. A letter that was given to Scott? A. Yes.

Q. Was it to the English half-breeds of the Red Deer Hills and St. Catharines and St. Paul's, dear brothers in Jesus Christ, is that the way the letter commenced? A. I think I could recognise it, it would be a good deal quicker if you read it to me. I cannot identify it.

Q. Look at the terms and phrases, perhaps you might bring it to your mind. Did you hear Scott read a letter at the meeting after you came back? A. Yes, the letter that we brought.

Q. See whether that is the letter that he read to the meeting. Don't read it aloud. Do you remember that as the letter read? A. I can't say.

Q. You can't say that it is or is not? A. I can't say that it is, or is not.

Q. Who brought the letter back from that meeting? A. Tom Scott.

Q. Now, you stated there were two delegations at Riel's that day, one Messrs. Mitchell and McKay, the other Mr. Scott, yourself and another, and you said that these two delegations were different or on a different basis or words to that effect. Will you tell me what the difference was, or what you mean by saying they were on a different basis?

Mr. Clarke.—I did not understand the witness to say that.

Mr. Osler.—I don't say those are the exact words, but he gave me the impression there was a difference.

Witness.—We both tried to make peace I suppose.

Q. Well, what was the difference between you? A. I can't say, I am sure, what the difference was.

Q. You did not mean to give any impression of that sort? A. No.

Q. Then you take it back, what I think Mr. MacIse put in your mouth that Scott did not go to Batoche from December 5th till 21st March. Of course you must take that back for you were away two months? A. Not that I know—not while I have been there, or not what I heard of, and I asked him and he said not.

Q. Now, do you know who called the cheers when the crowd were going out of the meeting, of the 20th March? A. I could not say.

Q. How many cheers were there? A. There were two or three I think.

Q. And you did not take any part in them? A. Only the usual cheers given.

Q. Three cheers for the Queen, I suppose, breaking up the meeting? A. Three cheers generally for the chairman.

Q. Were there three cheers for the Queen? A. I could not say.

Q. They tell me there were three cheers for the delegation, and that you were cheered, you would surely remember that? A. I don't remember the meeting to have dismissed.

Thursday, 9 a.m., 10th September.

WILLIAM PAQUIN sworn:—

Examined by Mr. MacIise:

Q. Do you know the prisoner Mr. Scott? A. Yes.

Q. How long? A. From 1879.

Q. That was when you came to where? A. The Ridge.

Q. Where do you live? A. At the Ridge.

Q. Now, do you remember what part Mr. Scott took in any agitation that there was just before the rebellion broke out, and what was it? A. I don't understand rightly.

Q. Before the rebellion broke out, what did you hear Mr. Scott say?

Mr. Osler.—That is not evidence, you have to answer definite facts that we prove.

Mr. MacIise.—I understood it was part of the Crown's case that the prisoner led these people into rebellion.

Mr. Osler.—You must not prove other facts. What the prisoner said on other occasions does not meet what he is charged with saying or doing on the specific occasions on which the Crown relies. We are not reviewing the man's whole conduct. We have given certain evidence of facts against him, those are the facts to be met, and the only facts in trial.

Q. Do you remember Friday the 20th March, last past? A. Yes.

Q. What do you remember that took place on that day? A. Well, a meeting at the Lindsay school that day.

Q. Did Mr. Scott say anything; what took place at the meeting, as near as you can recollect, with regard to, particularly, Mr. Scott? A. Well, they met there altogether, first to know what to do, then we heard that there was some trouble. So we came together there and they took three delegates to send up there.

Q. Who were the delegates? A. Scott, Ross, myself, and we went straight up there.

Q. What did the meeting direct you to go up for? A. To see what the state of affairs was, to see if it was true.

Q. When did you start? A. We started on Saturday morning at 1 o'clock.

Q. And you went to? A. Batoche's early in the morning.

Q. And what took place at Batoche's? A. Well, there was nothing much there. We went into a house there and saw the people there, some were sleeping and some were cooking their bread. Riel was not there, and we went to another house and met him there.

Q. Whom did you see there? A. We saw Riel.

Q. What took place from that until you left and went home? A. Mr. Riel asked us what we were doing. I can't say it rightly because I can't speak English.

By the Court:

Q. He asked you what you came for? A. Yes.

By Mr. MacIise:

Q. Tell us it as well as you can, take your time. Who spoke of you people? A. Scott.

Q. And what did he say? A. He said we were sent there as delegates. So we stopped there, three of us together, and he went down stairs, and I don't know where he went to. And after he came in again, he came and said Tom McKay was to be there that day, and Mr. Mitchell.

Q. And he left you, did he or did he not say something more? A. I don't know.

Q. At any rate, did he say anything more about McKay afterwards? A. Yes. He said that Tom McKay told Scott or some other friend that the English half-breeds were at Carlton.

Q. And what did Riel say on that? A. Well, of course, he was rather vexed, like, with us and said that we were going to trick him some way.

Q. What else did he say? A. He said something about discussing Nolin again.

Q. Do you remember what it was? A. I remember, but I can't say it rightly.

Q. You can't say it in English? A. I can't say it very well.

Q. Did Riel speak in English? A. Yes. I understand English pretty well, but I can't talk it. He said that he was going to shoot him, and then what can you expect?

Q. Well, did he say anything more just then? Did he let you go? A. No.

Q. What then? A. I think he went down stairs again, and then we stopped there. He said for us to stop there till McKay and Mitchell came there.

Q. Did McKay come? A. Yes.

Q. Well, do you remember any conversation that took place between Riel and Scott, after that before you left? A. Yes.

Q. What was it? What did Mr. Scott say? A. He said something about a letter for Riel to take down.

Q. Did Scott say anything about a rebellion? A. No. There was Tom McKay and Mitchell—when they came, they said they were to meet half-way some place to go and meet each other, Riel and them.

Q. But did Scott say anything more to Riel before he left, just before you left, at any time shortly before you left? A. He told him to send word to us what would happen.

Q. To send word to you in what case? A. About what bargain they would make with them, peace or agreement, or anything of that.

Q. You wanted to get word also on another reason, what was that? A. That is all I remember.

Q. Wasn't there some other reason that you wanted to get word for? Down at your place, you lived at the Ridge, didn't you? A. Yes.

Q. What were you afraid of there? A. I was afraid of the Indians, and that was why we were sent up.

Q. What did you want word for? A. I said that already. I said that for them to send on word if there was anything about the Indians. I said that already.

Q. That is, send you word down to where? A. To the Ridge.

Q. What time did you leave there to start for the Ridge, home? A. Towards evening, about three or four o'clock, on Saturday.

Q. Do you remember a meeting next day at Lindsay, that has been spoken of? A. Yes.

Q. You also remember one after that at St. Catharines? A. Yes.

Q. Was the prisoner there? A. Yes.

Q. What did he say at St. Catharines? He said it would be good if these volunteers would come back and protect Prince Albert, and all these half-breeds to join as one man and help them. That is what he said, something like that any way, not the very words.

Q. Do you remember that he said there were three cheers for Riel given? A. Yes.

Q. What part of the room were you in at that meeting? A. About the middle of the house.

Q. Did you hear what cheers took place? A. There was no cheers in the house.

Q. Well, what was there; what sort of noise was there of any kind? A. I suppose young fellows were cheering outside, but not in the house at all. I was there about the very last. I was there as far as to know what time of night they were going to start.

Q. Before you were at Batoche, what did Mr. Scott say? Before he was leaving what did he say to Mr. Riel about his mission there, and what you were sent for, and what you were going to do in the matter? A. He was sent there, and that he would have nothing to do with Riel, by taking up arms. He said that again.

Court.—That was at leaving? A. Yes.

Mr. Osler.—Q. When you were at Batoche, was anything to be done when you left? Did Scott promise, or did any of you promise to call another meeting? A. Yes, when we got back, that we would have to let you people know what was done.

Q. What did Scott promise to do at that other meeting? Was it not that he would get the people to remain neutral? A. Yes.

Q. And not help the troops against Riel? A. Against Riel, but not to go up there.

Q. They would not help Riel, and he would call the people together and get them to remain neutral, didn't he? A. Not like that.

Q. Wasn't that the way it was? How did they come to let you go? A. We did not promise them anything, any way.

Q. They let you go after McKay came? A. Yes.

Q. But he was to call another meeting and get the people to remain neutral—that is what you said, isn't it? A. Well, I said first, let the people know when we would get back.

Q. And the people to remain neutral —

Mr. Clarke.—If this is to be proceeded with, I will demand an interpreter. We insist upon an examination in Cree (this being, as witness says, his language.)

Mr. Osler.—The witness is answering in English very well.

Mr. MacIise.—He does not understand the meaning of the word "neutral."

Mr. Osler.—It is not right for a counsel to interfere in this way, highly irregular and improper.

Q. Now you were there how long? A. I got there in the morning and stopped there till about 4 o'clock in the evening.

Q. You got there in the morning about breakfast time, was it? A. Yes, about 8 o'clock in the morning.

Q. Now, were you with Mr. Scott all that time? A. Yes.

Q. And heard all that was said between Riel and him? A. Yes.

Q. Now, did you get a letter to take back? A. Yes.

Q. Was Mr. Scott to send back word what they would do after he called the meeting? How was Riel to know? A. I don't know about that.

Q. Well, how was he to know what was done? A. I don't know. I don't know whether we were to send word back to him or not—not that I know.

Q. What was the use of the meeting? A. It was, first, to know what to do, us people there that had families.

Q. But you have told my learned friend already that Scott told Riel to send word what bargain they would make as to peace? A. Yes.

Q. Scott asked Riel to send him word? A. Yes.

Q. Well, wasn't Scott to send Riel back word what the English half-breeds would do? A. We did not know what was coming. We had first to go and see that.

Q. How were you to know it? A. When we would get back we would know, and we would see if there was anything further going on.

Q. How were you to hear? How was the message to be sent? A. I am not talking about a message.

Q. Well then, it was the Indians that the settlers were afraid of? A. Yes.

Q. Not the French half-breeds? A. No, I was not afraid of them, anyway, myself.

Q. They were not going to attack you? A. No.

Q. What you were afraid of in the settlement, was the Indians? A. Yes, the Indians, that is what the wives were afraid of.

Q. And what Scott and you went over there for was to see how you would be protected against the Indians? A. Yes.

Q. It was not anything to do with the French rising? A. No, not at all.

Q. But it was just to see how you would keep your families right in case the Indians came down? A. Yes.

Q. And you wanted the French to arrange to protect you against the Indians—isn't that it? A. We had nothing to do with the French.

Q. You would not have anything to do with them, but what would you go there for the purpose of getting protection from the Indians? A. I did not say that.

Q. Well, what did you go there for? To find out what the Indians were going to do? A. Because, if they were going to come down, of course we would get ready for them.

Q. Why did you go to Riel? Why didn't you go to the Indians and see what they were going to do? A. We would hear from there.

Q. Did you inquire about the Indians from Riel? A. I think we did.

Q. What did Riel tell you about the Indians? A. I asked Gabriel Dumont myself, and he said that the Indians were going to take up arms, and that is all I asked him.

Q. Well, then, how on earth did you find out how you were going to be protected? You know you went there to see how you would get protected against the Indians. Now kindly tell me what you did to get that protection, what inquiries you you made? A. I did not go up there to get protection from the French, from the Indians.

Q. What did you go up there for? A. To make sure what was up.

Q. Well, what did you find was up? A. We thought there was some trouble there.

Q. Well, did you enquire into the extent of the trouble? A. No.

Q. Well, what was the use of your delegation anyway? A. I saw what was enough to satisfy me.

Q. To satisfy you of what? A. That there was some trouble.

Q. You knew that without going there, you know? A. No, there—

Mr. Clarke.—I don't think that is right, I submit to your lordship. The witness is on his oath, and he swears they went there to find out —

By Mr. Osler:

Q. You knew there was trouble there before, didn't you? A. No.

Q. You heard of it? A. I had heard, but I did not believe it.

Q. What had you heard? A. We heard there was going to be trouble there.

Q. What kind of trouble? A. Well, I don't know what kind of trouble it would be, but trouble, anyway.

Q. What kind of trouble? You can tell me what you had heard? You heard they were up in arms? A. We would hear it that way sometimes, and sometimes not.

Q. You heard they were going to fight the police, didn't you? A. I did not hear that.

FATHER ANDRÉ SWORN: —

Examined by Mr. MacIise:

Q. Do you know the prisoner, Mr. Scott? A. Yes, I know him.

Q. Since when? A. I know him since 1875.

Q. What business is he in? A. Well, the time I knew him he was a trader. He was coming there sometimes every week, sometimes oftener than that, and I was staying there, and he was trading for Stobart & Eden at that time.

Q. And you knew him, I suppose, to be a very disloyal man? A. As far as I knew, I never heard nothing but good about him. I never heard but that he was a man esteemed and liked. I heard Stobart, his employer, praising him very much.

Q. You know the Ridge? A. I know it very well.

Q. You know where Mr. Scott lives there? A. Yes, I passed there on my way

going down from Prince Albert to visit my mission. His house is along the road. I stay very often there at his house.

Q. You knew his wife? A. Yes, I knew her when she was alive.

Q. She was of what? A. She was an English half-breed.

Q. Neither Mr. Scott nor his wife belong to your church, do they? A. No, they don't belong to my church.

Q. Now, what sort of settlement is there about Mr. Scott there? A. A settlement of farmers, especially English half-breeds and some white men about.

Q. A few white men? A. Yes.

Q. What relation does Mr. Scott bear to them, or did he bear to them, at the time of the last rebellion, and what influence had he over the people about there? A. Well, I know Mr. Scott was a man who had a great deal of influence there among the people, because along the way I am acquainted with almost all the half-breeds there, and I heard them talking very highly, all the time, of Mr. Scott, and I know that he was considered a leader in that part of the country there.

Q. He had their confidence? A. Yes, as a man he has their confidence. They are simple people there, and Mr. Scott is liked by them.

Q. Did you ever hear of his abusing that confidence? A. No.

Q. Or know of his abusing that confidence in any way? A. No. As for that, I heard them praising him very well all the time, a long time before the rebellion.

Q. Well, at the rebellion you know that it was feared that—in Prince Albert—these English half-breeds would rise, did you not? A. Yes, all the time I was there. That was our fear, that the English half-breeds—we were expecting they were going to join Riel at that time, and we said there must be some great influence to stop them.

Mr. Osler.—That is not evidence.

By Mr. MacIse:

Q. Now, you had some conversation with Mr. Scott about the time of the rebellion when it broke out? A. Not at the time of the rebellion. The time that Riel came to the country and the meetings were going on, I was to stay at the place of Mr. Scott and we were to speak about general things that were going on.

Mr. Osler.—That class of evidence was ruled out yesterday.

By Mr. MacIse:

Q. Well, do you remember the 20th March last? A. Yes, I remember it well.

Q. What occurred on that day? A. On that day, the day the news came that the rebellion broke out, or the half-breeds were in arms, I was sent by some settlers to see what it was about. I started to go to St. Laurent and on the road I was obliged to come back. We met ten English half-breeds and they told me it was better for me not to go there, because you will be arrested if you go there, and I came back, and saw the country was greatly disturbed and all the women over the country out of the houses and coming rushing to enquire. They were afraid of the Indians. That was the great fear, that the Indians would come down.

Q. That was about the Ridge, up and down? A. Yes; I went further than the ridge, ten miles short of St. Laurent.

By the Court:

Q. Ten miles from St. Laurent? A. Yes.

By Mr. MacIse:

Q. You remained on after that till the day of Mr. Scott's arrest? A. Yes. I saw him coming down there with his team, and I saw the police coming for him there.

Q. What sort of a place did they put him in?

Mr. Osler.—You know that is wrong and you shouldn't ask it,

Mr. Clarke.—We simply tender the evidence.

Mr. Osler.—You know that it is wrong.

CHARLES NOLIN SWORN : —

Examined by Mr. MacIse :

Q. Do you know the prisoner, Mr. Scott? A. Yes.

Q. How long have you known him? A. Since 1879.

Q. Where does he live now? A. Prince Albert. At the place called the Ridge, ten or twelve miles this side of Prince Albert.

Q. What position does the "Ridge" hold as to Batoche and Prince Albert, especially in the winter when the snow is heavy—I mean the trails from Carlton and Duck Lake and Batoche leading to Prince Albert, where is the Ridge with regard to them?

Mr. Osler.—We will admit that it is in the centre. It is proved by three or four witnesses.

Witness.—The roads joined going to Prince Albert. It is a main road.

By Mr. MacIse :

Q. Going from Batoche to Prince Albert? A. All the roads meet. Yes.

Q. In case any advance had been made by the rebels from Batoche on Prince Albert, what would have been the effect on this Ridge settlement? If the rebels or the Indians had gone to Prince Albert, how would the Ridge have stood, would they have passed through the Ridge first? A. Yes, they would pass through the Ridge first.

Q. Well, then the people living there would be in great danger, would they not, in case of an advance, the people living at the Ridge? A. Yes.

Q. What sort of a settlement is that about the Ridge, north and south of St. Catharines and Halero's, what people live there about Mr. Scott, principally? A. Almost all the farmers, and I think the most of them English half-breeds.

Q. Now, what do you know about these English half-breeds who reside about there, trying to bring Mr. Scott into taking a lead in public affairs, both at and before the rebellion? A. I don't know if the English half-breeds take Mr. Scott as leader, but I know in some meeting Mr. Scott exercised great influence on the people.

Q. Now, you were at Mr. Scott's house out and in before the rebellion took place and up to the time of the rebellion were you not? A. I stopped often at Mr. Scott's place, pretty near every time I passed there. I stopped there often.

Q. What was his opinion? What did he say?

Mr. Osler.—That is objected to, and has been ruled on half a dozen times.

By Mr. MacIse :

Q. You were arrested by Mr. Riel were you not? A. Yes.

Q. What were the circumstances? What were you trying to do, or what were you doing when he arrested you, and when was it? What did Riel make you prisoner for, and what were the circumstances? A. On the reason I did not want to raise rebellion, I refused to join him, and I worked against him too.

Q. And where did he arrest you? A. He arrested me at the church, St. Laurent.

Q. How far is that from Batoche? A. Six or seven miles.

Q. Where were you going when he arrested you? A. I was to the service in the church.

Q. Now, do you remember the 21st March last? A. Yes.

Q. What day of the week was it? A. Saturday.

Q. Did you see Mr. Scott on that day? A. Yes.

Q. Where? A. In the council room, Riel's council room, at Batoche.

Q. And what took place so far as you recollect that day? A. Well, Mr. Riel sent for me to join him, and he asked what influence had Mr. Scott, and Mr. Scott says, I got a large meeting last night and I was appointed delegate, at the meeting.

you will find the news I got in the letter, and then Mr. Scott gave the letter to Riel, and I don't know what was in the letter. I did not see the letter. I saw Mr. Riel read the letter, and after Mr. Riel read the letter he asked Mr. Scott about the rebellion and Mr. Scott replied to Riel, I got nothing to do to speak any question with you. I am delegate. If you have got something to say, send answer by letter, that is my mission. Personally, he says, I disapprove the two actions.

Q. The whole action you mean? A. I disapprove first, to raise arms, and to raise Indians. I disapprove of that myself, and that is all I heard of the conversation between Mr. Riel and Mr. Scott.

Q. Did you hear Riel afterwards say anything about the English half-breeds at Carlton to Mr. Scott? A. No.

Q. You did not hear Riel say anything about that? Where did you first see a copy of this proclamation of Major Crozier; who did you get it from? A. The first time I saw it, I think, I am not positively sure, I think it was the 24th March, at a meeting at Lindsay's schoolhouse—the first time Mr. Scott gave me a copy of it.

Q. What did he say to you when he gave it to you? A. I kept a private conversation with Mr. Scott. I was standing by Riel with Mr. Monkman. I could not say exactly the mission of Mr. Monkman, but he got a mission and Riel sent me with Monkman, and he got twenty-two men with Mr. Monkman, and I went to that meeting at Lindsay's schoolhouse where the people and I met Scott at that meeting, and spoke privately with him and some other leading men, and I told Mr. Scott I am in a bad position and I wanted to escape, I don't know where I can go. Mr. Scott says, well you have got good way there to escape.

Q. Did you hear what Scott said at the meeting? And what was it—on the 24th? How many people were there? A. I did not count the people.

Q. About how many do you think? A. House large and full—I suppose between 100 and 120 people there.

Q. Well, did Mr. Scott speak there and advise the people? A. Yes.

Q. What did he say? A. Mr. Scott spoke, and I can't say all he said, I cannot give all his speech in a few words. Mr. Scott says, I am sorry to sympathize with the French. For two reasons, I can go with them, the reason to raise arms, and raise Indians too, for those two reasons I stop, and Mr. Scott spoke all he could in the meeting to stop the English half-breeds from joining Riel, and besides that, he got a petition. I don't know if he made the petition himself, but he brought the petition himself in his pocket, and showed the petition to the meeting that night. And all agreed with that petition, some two or three or four leading men all spoke in favor of the petition, and no person spoke against the petition, and they all agreed to sign the petition.

Q. Was this (exhibit "L") what they signed? A. I could not read the petition. I heard the petition read at the meeting, but I did not read it myself.

Q. Was it a petition that had been gotten up at the meeting the day before? Do you recollect? A. I never saw the petition before that. Mr. Scott took the petition out of his pocket at that meeting.

(Petition here read by Mr. MacIse.)

Q. Do you remember those expressions? (Witness asks that the whole petition be read, which is now done.) A. Yes, that is the petition that I heard read.

Q. That is the one that Mr. Scott then read at that time? A. It is a copy any way.

By Mr. Oster:

Q. I understand then, Mr. Nolin, that on the 24th there was a meeting at the Lindsay schoolhouse, and you were there; were you at the Lindsay schoolhouse on the 24th? A. Yes.

Q. And twenty men and Monkman from the French half-breed camp? A. Yes.

Q. And Scott met them there? A. Yes, Scott met them there.

Q. Were your twenty men under arms? A. Yes.

Q. Was it a private meeting? No, it was a public meeting.

Q. Were the twenty men under arms there? A. Yes, not in the house but outside.

Q. And matters were discussed there? A. The matter was discussed, the petition was discussed.

Q. And who was the chairman of that meeting? A. I don't know his Christian name, Mr. Miller.

Q. Did any of you from the French camp speak at that meeting? Did you speak? A. Yes, I spoke a few words there, and Mr. Monkman spoke.

Q. And Mr. Monkman was one of the leaders, wasn't he, of Riel's? A. Yes.

Q. He spoke there too? A. Yes.

Q. And what did Monkman want them to do? A. I could not say exactly what Mr. Monkman's mission was. As far as I understand, Riel sent him to take the English half-breeds by force.

Q. You think he sent Monkman to bring some of them in? A. Yes.

Q. Well, was it counselled there, was it agreed there that the English half-breeds would remain neutral? At that meeting? A. Oh, yes.

Q. And that they would try and get the volunteers to lay down their arms? A. No, I did not hear nothing about that.

Q. Do you know any other Thomas Scott about the Ridge? Is this the only Thomas Scott you know? You know all the people around there don't you? A. It is possible there might be, but that is the only one I know.

Q. And that is the only one you heard of in that neighborhood? That is the only Thomas Scott you have heard of in that neighborhood? A. Yes.

Q. And he was the only Thomas Scott who took any interest in the movement? A. Yes.

Q. And he seemed to be acquainted with the French council there generally?

Mr. Clarke.—That is trying to manufacture evidence, and you are taking advantage of a man who does not understand the language very well that he is speaking, for that purpose.

Mr. Osler.—You know it is highly improper to interrupt a cross-examination like that?

Mr. Clarke.—It is not a cross-examination. You are making out an examination-in-chief, and you are giving evidence.

Mr. Osler.—A barrister of a year's standing ought to know better than to interfere. It is grossly irregular, and you ought to know better.

Q. Now, you were at that meeting? what time was it held?—that meeting at Lindsay's schoolhouse? A. Held in the evening, after dark.

Q. Now, did Mr. Scott know the members of the French council? Was he acquainted with the neighborhood of Batoche? A. Well, I don't know if he knew the French council at that time. I know that he knew the French council before Riel. Since that I can't say, because the French affairs were changed by Riel.

Q. Then, what the English half-breeds were afraid of, I believe, were the Indians? Were they afraid of the Indians, or were they afraid of the French half-breeds? A. Well, for my part, I don't think the English half-breeds are afraid of the French half-breeds.

Q. But he was afraid of the Indians rising? A. Yes.

Q. And what troubled them at that meeting was, how they would be protected against the Indians? A. The trouble at that meeting is in the petition, because he asked the Government to settle as soon as possible with the French.

Q. To settle with the French, who were in arms, as soon as possible?

Mr. Clarke.—He did not say that.

Mr. Osler.—Is the learned gentleman acting as a professional gentlemen ought to?

Mr. Clarke.—When the counsel puts words in the mouth of the witness, it is time to interfere.

Mr. Osler.—I may say I have been practising at the bar for a great many years, and I never knew of such professional conduct before, as I have had from the learned

senior on the other side. I have never known a man so careless of what is right in professional conduct as the learned counsel.

Mr. Clarke.—I shall be obliged to ask that the witnesses be examined in their own language, if this thing proceeds.

Mr. Osler.—It is simply impossible to carry on a cross-examination with such conduct.

Q. The idea was, as I understand it, Mr. Nolin, to get the Government to make a treaty with the French who were in arms? A. I think my expression may be can make a misunderstanding. All the question that was discussed at that meeting was in the petition.

Q. In the document? A. In the document.

Q. Well, the idea was to get the Government to make a treaty with them, with Mr. Riel? A. Yes.

Q. To make a treaty with Mr. Riel? A. Yes, as soon as possible, to recognize—

Q. That was what they were trying to do at that meeting? A. Yes.

Mr. MacIise.—You have just been referring to a treaty, which seems to be disposed of in short order—was the discussion that took place there in sympathy or not with the expressions in this document that you have already sworn to?

Court.—He said so in plain words, as I understood it.

By Mr. MacIise:

Q. Now, there is a clause in this: "We, therefore, beg of the Government to do justice with the settlers." Was that the sentiment of that meeting? A. Yes, all the discussion at that meeting was just for that petition purpose.

Q. "We therefore beg of the Government to do justice to the settlers." That was the sentiment of the meeting? A. Yes. I think my expression is not very good, you know, because I can't talk very well, but all the meeting agreed to support in favor of the petition.

Q. You will have to be careful that your expressions are not twisted into something else; now the question of those twenty-two men going there in arms has been referred to, where were those arms during the meeting? A. Outside the house.

Q. Where, outside the house? A. Just near the house.

Q. In what, were they open and exposed—the arms; could anybody see them? A. I don't know, I could not say that.

Q. Were they standing up or not, outside? A. Oh, yes.

Q. Isn't it a fact that they were covered up? A. I did not see them covered.

Q. Well, how were they standing; picked up together or what? A. Well, I did not pay much attention to the arms.

Q. You don't know where they were? A. No, I was in the house all the time.

By Mr. Osler:

Q. Where did you put your gun? A. I got no gun.

By Mr. MacIise:

Q. Do you state you had no gun? A. Certainly.

Q. And you know all about it don't you—about your not having any gun; the learned counsel says that is all you know about it. Now, I ask you is there anybody else could know better about your having a gun or not, than yourself? A. I am compelled to speak English, and I find now, advantage is taken of the fact that I can't speak English properly; Mr. Clarke says this.

Mr. Osler.—Don't understand me as saying that you had a gun. I was trying to tell Mr. MacIise that the only question he could ask you was about your own gun and we know that you had none.

Witness says in French that he would like this to be translated into his own language.

Mr. Osler.—The witness has answered intelligently questions put to him in English. The jury are satisfied he has had a fair examination.

ANDREW WHITFORD, sworn:—

Examined by Mr. MacIise:

Q. Do you remember Sunday, the 22nd March last? A. Yes.

Q. Were you at a meeting at St. Catharines that day? A. Yes, it was in the evening, not in the day.

Q. Was Mr. Scott, the prisoner there? A. Yes, he was there.

Q. Do you know him? A. Yes, I know him.

Q. How long have you known him? A. Quite a while I have known him. I can swear I have known him about ten years anyway.

Q. Where does he live? A. At the Ridge.

Q. You know that settlement well? A. Yes, I am acquainted with the settlement.

Q. At this meeting at St. Catharines did Mr. Scott speak? A. Yes.

Q. What did he say, as near as you can recollect? A. He said it was a very foolish idea for the volunteers going up to defend Carlton when Prince Albert was the place they ought to defend.

By Mr. Osler:

Q. You remember all he said, do you? A. I don't remember all he said, but I remember what I have just said.

Q. And do you remember what Mr. Spence said on that too? A. I do not remember what Mr. Spence said, because I have no learning to remember—any such memory as that.

Q. Can you remember what Mr. Matheson said? A. Yes, I can remember some of it to a certain extent, but not the whole of it.

Q. Can you remember all that Mr. Scott said? A. No, I don't. I don't remember all he said. I just remember what I have said and no more.

Q. No more? A. I don't remember any more, but I remember a little of what Mr. Matheson said.

Q. You know we often have to consider very much whether a man who recollects just what is important and nothing more, whether he is a good witness or not? A. Would you say that again?

Q. Do you say you can't remember anything more than just these words, nothing more of what Mr. Scott said; that is all? Who else spoke? A. Well, to the best of my knowledge Mr. Adams spoke too and also Mr. Craig.

Q. Tell me what Mr. Craig said? A. No, I can't.

Q. What Mr. Adams said? A. No, I can't. I could not tell you exactly what they said.

Q. Where do you live? A. I live at Prince Albert.

Q. What is your occupation? A. Hired servant. I was working at that time at this meeting for a woman named Mrs. Taylor, right in town.

Q. Where are you working now? A. I am not working now. I was working on the boat till I came down here.

Q. How did they find out you knew this? A. Of course I was present there.

Q. How did they find you out; and find that you knew the very words? A. Well they did not just know that I knew the very words till they brought me here to see what I knew.

Q. They brought you 300 miles on spec—

Mr. Clarke.—The same as you brought the post office sweep.

Witness.—I don't see no spec.

WILLIAM MILLER, sworn:—

Examined by Mr. MacIise:

Q. Do you know Thomas Scott? A. Yes.

Q. How long have you known him? A. Since the fall of 1878.

Q. Where does he live? A. On the Ridge.

Q. Where do you live; about the nearest neighbor to him? A. Yes.

Q. And what does Mr. Scott carry on there? A. Farming, his general occupation.

Mr. Osler.—We will not contest that he lives at the Ridge and is a farmer.

By Mr. MacIise :

A. Do you remember the return of Mr. Scott home in March last? A. It was some time about the middle of March. I could not exactly say the date.

Q. From where? A. From Troy.

Q. Do you remember the 20th March when the meeting was held? A. Yes.

Q. Now where was Mr. Scott between the 13th and 20th, as far as you know as his nearest neighbor? A. He was at home as far as I know.

Q. If he had gone to Prince Albert during that time would you have known it or would you not? A. Well, I might, I could not say positively that he was at home every day, but to the best of my knowledge he was at home; because he generally came up if there was any news from Prince Albert—generally came to my place.

Q. Hugh Ross was stopping at his place at the same time? A. Yes.

Q. Do you know Hugh Ross the witness who has been examined? A. Yes.

Q. Now do you remember the meeting on the 20th March? A. Yes.

Q. It has been spoken of here in evidence that William Miller was secretary of that meeting; is that yourself? A. Myself.

Q. Now Mr. McNiven in his evidence has stated that you in your remarks at that meeting stated that the French were under arms? What have you to say in regard to that? A. I did not make no such statement.

Q. Now do you remember the meeting held the Sunday after, at Lindsay? A. No, I was not there.

Q. Were you at St. Catharines? A. No.

Q. Now you have seen this petition "L," have you ever seen that before? A. Yes, that is my signature to it.

Q. The original of this was signed where, sent where? A. To Major Crozier, at Carlton.

Q. Who took it? A. Mr. Charles Adams and myself. We were two delegates to go up with it; but it did not reach there.

Q. Did you take any pains to send it on? A. No; before we reached there we heard of the Duck Lake fight, and I said to Mr. Adams blood had been spilled, and there was no use trying to do anything more, and we turned back, and brought the papers back; and when I left home I destroyed all the papers with the exception of one or two private papers of my own—destroyed them in my own house—did not know whether I would ever be back again or not.

Q. Well, what was the object of this petition? What was to follow it? What was this for, to be signed by so many people? A. Just what the petition contains.

Q. How did it come about? Had it any connection with Mr. Matheson? A. At the meeting at Lindsay, on the 24th—that is the meeting where Mr. Riel was—Scott read out that petition.

Q. Did you hear Matheson's evidence yesterday, to the effect that he had been to Carlton and got instructions to act, to come down and get certain things done? A. Yes, that is what I understood that petition was for, to fulfil the request that Mr. Matheson had come down for.

Q. And to be—? A. Forwarded and signed more fully than Mr. Matheson's one had been.

Q. Now, what was the object of the meeting of the 20th? What was the object of sending delegates? What was said at the meeting with regard to that? A. It was to find out whether the reports were true or not, and for the settlers to take into consideration their best means of protection.

Q. Now, considering the position that settlement was in, what was the desire of

the people? Why did they wish to know what was going on? A. Because all the roads leading from the west and south were joined in there at the Ridge, and if there was a body of men coming down—suppose they left on separate roads, they would be all together at the Ridge and before they came to the Ridge.

Q. Any particular body of men, or general men? A. General men.

Q. Did it refer to the Indians alone, or to the French and Indians, or what did it refer to? A. We did not know, and that was the reason of the delegates being sent up, to ascertain whether it was the English or French half breeds, and find out the particulars.

Q. You expected what would take place on the Ridge? A. If they came down, we expected, if we did not be protected or be out of there, we would be massacred.

Q. Where did you expect, in the event of an advance from Batoche or Prince Albert, the fighting would be done? A. I did not expect anything like that. I could not say where the fighting would be done.

Q. If fighting took place before reaching Prince Albert, ten miles off, wouldn't it be on the Ridge? A. If they were going to massacre, they would massacre as they came along.

By the Court :

Q. I understand you to say that all the trails leading to Prince Albert converge before reaching the road, and the Ridge is an exposed place that they were interested in? A. Yes.

By Mr. MacIise :

Q. Something has been said about cheers at this meeting on the 20th, by Mr. McNiven, what have you to say with regard to that? A. I heard no cheers.

Q. He has stated that somebody called for three cheers for Riel; he does not mention anybody in particular as calling for them. Did you hear anybody? A. No, I did not.

Q. Were you close to, or far from, Thomas Scott during that meeting? A. Not very far, I don't think; I think he was somewhere about the centre of the room, and I was up in the corner getting on my overcoat, and one or two more there were putting on their overcoats to go home.

Q. Does Scott understand Cree? A. Not to my knowledge. I never heard him talking Cree.

Q. Now you went around with this original petition getting signatures? A. Yes.

Q. Did you apply to Thomas McKay? A. Yes.

Q. What did he say? A. He said the French had no G—— d—— rights. He said there was men enough now in the country to get them their rights.

Mr. Osler.—That is not evidence.

Mr. MacIise.—It contradicts McKay at any rate.

Q. You were present when Mr. McKay's evidence was given? A. Yes.

Q. Now, after the 21st March, when Mr. Scott returned home, from that till say the evening of the 23rd what steps and with what view had been taken by the people of the Ridge in bringing about peace? A. Well, at the meeting of the 24th I understood that that was the object, what they had done during that space, to get them up their resolutions and get them signed and get them forwarded.

Q. And that these were the steps taken. Any other steps taken? A. Not to my knowledge.

Q. Now, from the evening of the 21st to the evening of the 23rd, in what way were the English half-breeds in sympathy with the French?

Mr. Osler.—How can that affect the question of Scott, whose conduct alone is in review?

By Mr. MacIise :

Q. In what way did Mr. Scott try to influence them? A. I never heard of any way but legal constitutional agitation.

Q. Well, as far as you saw of what Scott did, in what direction was that? Between the evening of the 21st and the evening of the 23rd? A. It was constitutional agitation. He was in sympathy with the grievances, but was down on taking up arms, or anything that was unconstitutional.

Q. There is an expression here (in petition): "We therefore beg of the Government to do justice to the settlers." Was that the sentiment of Mr. Scott so far as any evidence you heard of his? A. Yes.

Q. Was there anything not in accord with that in any of the utterances you heard from him? A. No.

By Mr. Osler :

Q. You were secretary of the meeting of the 23rd March, Mr. Miller? A. Yes.

Q. Held at the Lindsay school house? A. Yes.

Q. Thomas F. Miller, chairman? A. It was the 23rd.

Q. You were secretary of the meeting, I understood you to say to my learned friend, of the 20th March? A. Yes.

Q. Who was chairman there, Mr. Scott? A. Yes.

Q. Are you any connection of Mr. Scott's? A. I am a brother-in-law.

Q. How soon after the 18th did you know that they had taken prisoners and had been looting stores? When did that get to your ears? The news spread very quickly of course? A. I don't remember just exactly.

Q. Well, it was before the meeting of the 20th? A. It was before the meeting of the 20th. I think it was that day was the first I heard all the news together about the uprising—we did not know what it was.

Q. The meeting was called because you had heard of the uprising, you had heard they had taken up arms and taken prisoners? A. We did not hear they had taken up arms.

Q. You had heard they had taken prisoners? A. Yes.

Q. And had been looting stores? A. Yes.

Q. So that that was known to the people at the meeting of the 20th? A. Yes.

Q. Then you never did deliver this petition or resolution to Major Crozier? A. No.

Q. And that is not true that they ever got to his hands? A. No; that is not true. Before they could be forwarded there had been a battle—Duck Lake fight had taken place.

Q. You were going to take that over there, weren't you? A. Yes.

Q. And you did not forward them? A. We went within about two and a half miles of Carlton when we heard the fight had taken place.

Q. Who took in the copy that is under your hand found in the rebel camp? A. The delegates were James Iabister and Geo. Wm. Sanderson.

Q. Sent in to take them to the camp? A. They were sent to take them to the camp.

Q. On what day? A. On the same day that Mr. Adams and I started.

Q. Two of you started to give them to Major Crozier, and two of you started to give them to Mr. Riel? A. Yes.

Q. And the Riel copy got in, but the other did not? A. I don't know whether the Riel copy got in.

Q. At any rate, this is the one—"E"—that you sent there? A. Yes.

Q. That is the one you made out for them? A. Yes.

Q. Then what you wanted the Government to do was to make a treaty, was it not, with the French, and include your rights as well? A. Well, our sympathies were with the grievances of the country.

Q. And you wanted that treaty made? A. We begged of the Government to do it.

Q. That is to say, you begged of the Government to make a treaty with the men who were in arms against the Government; is that it? A. We begged of the Government to redress the grievances.

Q. "There is no way of settling the disturbance but by treaty or war." That was what you declared to the Government, wasn't it? A. Yes.

Q. What you were afraid of was the Indians, wasn't it? A. We were afraid of the whole, for my part.

Q. When did you destroy your papers? A. Before I left home.

Q. Before you left home to go to Major Crozier? A. Before I left home to go to Prince Albert.

Q. After you came back from hearing of Duck Lake? A. Yes.

Q. Now, what papers did you destroy? A. All the papers that I had had around me.

Q. Had you been secretary of many meetings? A. No.

Q. What did you destroy them for? A. I did not know whether I would ever be back again to the place or not, and I could not take any more than I took down to Prince Albert.

Q. But to destroy papers and writings is surely an extraordinary proceeding? A. Well, there were letters and things of no consequence, and I just put them all into the stove and destroyed them.

Q. You burnt the proceedings of the meetings? A. Yes.

Q. How many meetings did you burn the proceedings of? A. Two that I was at; there was no writings in them.

Q. One would suppose you would want to keep them to show what you had done, but you thought it best to burn them? A. I did not consider they were going to be of any use to any person.

Q. How near Scott were you living? A. About half a mile.

Q. Do you know that he is the only Thomas Scott on the Ridge? A. He is the only one I know of.

Q. The only one who had any communication with the French council? A. Yes.

Q. Did Mr. Scott show you a letter from the French council at any time signed by Louis David Riel? A. No, I don't think he did.

Q. Did he ever read you one? A. No.

Q. Did you ever hear him read one at a meeting? A. I can't recall it to memory.

Q. Try again? A. No, I can't.

Q. How many meetings were you at after the 20th March? A. Just one, after the 20th.

Q. It was on the 23rd? A. Yes.

Q. You did not go to the meeting on the 24th? A. It was the 23rd I was at.

Q. Did you go to the meeting of the 24th where Charles Nolin was? A. Wasn't it the 23rd Nolin was—that was the meeting I was at, the one Nolin was at.

Q. Some twenty French half-breeds? A. I did not know about that.

Q. You did not know that they were there? A. No.

Q. What is the meaning of this (in the petition) and 455 others—where is the paper with 455 signatures? A. It was burnt. It was one that Mr. Adams and I were taking to Mr. Crozier.

Q. So that the petition to redress your grievances, instead of being forwarded to the Government with the signatures of the settlers in order that they might be redressed, was burnt by the secretary? A. We did not consider that it was of any use after there was bloodshed. We did not consider there was any use.

Q. It did not strike you that the sending forward a petition prepared before the blood was spilt would show the position that you had taken? A. No.

Q. Who did you consult before burning the papers? A. I did not consult any person.

Q. What do you mean? When you say you did not consider it worth while keeping it? A. The people, Mr. Adams and I—

Q. Who did you consult with before burning it? A. It was my own opinion that after blood had been spilt—

Q. Either tell me that it was yourself, your own action, or else take back the word "we." If you use the word tell me who you were? A. It was my own action.

Q. And you took the responsibility of a petition signed by 455 people to the Government, you took the responsibility upon yourself of destroying that with the other papers, without consulting anybody? A. Yes.

By Mr. MacIise :

Q. Isn't it a fact now, with regard to this petition being sent, you say that on the 20th March you had heard there was a disturbance? A. Yes.

Q. And the battle of Duck Lake was fought on the 26th wasn't it? A. Yes.

Q. Now, the object and hope of these petitions between those dates was what? A. To avert bloodshed.

Q. To stop the rebellion in fact? A. Yes.

Q. To stop anything like rebellion of any kind? A. Yes.

Mr. MacIise.—That is the defence.

Mr. Osler.—We have no evidence in reply.

All evidence closed.

ADDRESS OF COUNSEL FOR DEFENCE.

Mr. Clarke.—May it please the court, a very few words, and a very few moments will suffice to sum up the evidence in this case. In opening the case for the Crown, the learned counsel representing the Crown stated what the case was, its nature, and the evidence that he would adduce. That evidence you heard. The nature of the case you heard in hearing the indictment read. Now, you have heard the evidence for the defence. I think when I spoke to you last, I had the honor of saying that we would prove by evidence that there would be no mistaking that the prisoner at the bar, instead of holding the position that he did in the dock, deserved praise for being one of the most prominent in trying to maintain peace and good order in the country at the time and before the time of the late disturbance.

Now, we have the evidence of the meetings—these meetings that were said or insinuated to have been so treasonable. We have the facts in relation to the resolutions, and to the petitions that were got up, and we have the evidence of three or four men in each instance almost for every witness brought forward by the Crown.

Now, we will begin as near as possible at the beginning in considering the evidence. The first thing that you have to consider, gentlemen, is this—the prisoner is charged—when the whole thing is boiled down, when the centre, when the heart, when the core of the whole case is touched—it means : a certain letter which is set forth at length in the indictment in two or three different places, the charges being rung on it in every possible manner that it is possible under an absurd and obsolete law that has existed for 200 or 300 years, and was made at a time when people repulsed the more that they were bothered, and the easier they were hanged the better. Now, all the changes have been rung upon that, and I submit to you gentlemen that that letter you must cast aside altogether. I submit that to you as a proposition, and I shall expect—and I am satisfied—that the learned judge will charge you on that subject. I submit that there is not a tittle of legal evidence to bring home that letter and identify it in any manner with the prisoner at the bar; that is a letter or something written on a piece of paper in blueish pencil, and signed, "Thomas Scott."

Now, gentlemen, the proposition that I submit is this, that the Crown is bound in this case to bring forward before you the best evidence, the very best, no second best, but the very best evidence. If it had been Big Bear or one of the Indians who had no facility whatever for getting hold of a witness, or who had no counsel to advise what evidence was required, there might be some kind of overlooking laxity of this sort, but the Crown had every possible facility that money, that influence, that spies, informers and the cleverest talent at the bar could bring to bear upon this thing, to bring that crime home to that man, and to identify him with that letter. They have failed to do it. What evidence have they taken? They brought an expert to tell you that these writings, all these signatures, were his. Well now, that

expert, to prove exactly how he is to be relied upon, the witness that went into the box there and told you that last name signed "Thomas Scott" on that (showing it to jury only) scrap of paper was written by the same hand as the other was wrong, for I wrote one of them myself. That shows the value of the testimony, but supposing he had proved that was Scott's signature, it was not saying that the name signed to that piece of paper, that letter, that that is Scott's signature, not by any means. It is signed with a pencil, and, fortunately, in these cases it is a matter of fact, and as a matter of fact, it is for you to determine what credibility you attach to that expert testimony, and whether on the solemn obligation that you have taken, you are prepared to say that you have no shadow of doubt that that letter was written by Thomas Scott, the prisoner at the bar, and that Thomas Scott conveyed it to Riel, and that Thomas Scott had an illegal object in view in doing so. Now, if you are prepared to do that, it will be for you, gentlemen, to take the responsibility. But it will be asked why didn't they bring in other evidence to prove this man's signature? Why didn't they do that? They bring a document brought by a boy from the Winnipeg Post Office at considerable expense, to prove what?—that these papers came from a certain post office, and that the postmaster was supposed to have signed these papers. On two of the papers at least are the signatures appended of two witnesses, and these witnesses reside at Prince Albert, within the call of this court, where they brought their other witnesses from. Why didn't they bring either of these two witnesses? Gentlemen, that is the best testimony to prove that that signature to that bond was the signature of the postmaster. But who was the postmaster? Are you satisfied to take the assertion of a boy from the post office in Winnipeg, when a postmaster is an official appointed by the Government, and his nomination as postmaster appears in the *Official Gazette*? That is the best evidence of who the postmaster was. You have not any such evidence. Gentlemen, you are the judges of the fact. I have a right simply to suggest. I have a right to point out to you the deficiencies in the evidence, but I have no right to dictate to you what way you are to decide. You are the judges of the fact; you are responsible for that, and not me.

Now, with reference to the finding of this paper said to have been found in Riel's council chamber. Who brought it there? The Crown has taken the best possible means, gentlemen, of finding and showing you how very particular jurors ought to be in accepting a piece of evidence. By the last witness they showed you that that which was ordered by a meeting to be sent to a particular individual was after that meeting supposed that it had been handed to the party for whom it was intended; but it was destroyed before ever it reached that party. Had it not been destroyed, had it been left at that man's house, it might have been carried off by anybody and found in a particular place subsequently, and consequently it must have been Thomas Scott who sent it there, or whoever was charged with doing it.

Gentlemen, you see how difficult it is, you see how necessary to have the evidence, particularly when it is so easy to make that evidence perfect, and to have it perfect before attaching any importance to it.

The next thing that is brought against the prisoner at the bar, and the evidence by which that is sustained by the Crown, is this: that the prisoner at the bar tried to compel Her Majesty to change her measures. What an immense amount of responsibility is thrown upon Her Majesty's shoulders and how extraordinary is the weight that would attach to the importance to Her Majesty in England, who heard nothing about all these things, when it comes to a question of the stupidity or worse of officials who in Her Majesty's name are misbehaving themselves at Ottawa. It is a crime punishable by imprisonment in the penitentiary of Canada to ask the Ministers of the Interior humbly at the end of fifteen years to grant these poor people their rights. That is compelling her to change her measures. And the learned counsel for the Crown, seeing that he has not the shadow of a case against the prisoner at the bar, seeing that he has not the ghost of a case against the prisoner, to bring home to him anything that is dishonorable and disloyal, he seizes upon a word written by poor, uninstructed, ignorant people, where they use the word

"treaty." Now, you will have the changes rung upon that. It shows, they say, that they were trying to compel Her Majesty to change her measures, to do what they said, and that it was a treaty they wanted to make with Her Majesty.

Gentlemen, I don't consider it worth while attaching any importance to that, only that I warn you you are likely to have an immense amount of importance attached to that particular word "treaty;" and, probably out of the 455 who signed it there was not one solitary man understood what the word "treaty" meant in a legal sense. But here everything is to be boiled down to a legal sense when there is no crime that can be brought home in an open manner against one who is to be the victim of the Crown, and the Crown must try it by ringing the changes upon legal terms and legal words to bring home crimes to him who never contemplated any crime. That is the point I draw your attention to specially, gentlemen of the jury, and I ask your serious consideration of this thing. We have a witness who comes forward to prove that this man had the audacity of the others to meet and to ask the Government to give rights to those people, and by that means to avoid bloodshed. That gentleman, a gentleman of very great intelligence and education, out of his pocket, took the report of the meeting and resolutions, which, on the hypothesis enunciated to you by the Crown, would send him forth to the penitentiary, for everything that is charged against this man as having been done, is proved by that man as a witness in the box that he did, but at whose instance did he do it? At whose suggestion? At the suggestion of the highest officer known to the people of that country at that time, Major Crozier. You have the minister of the gospel, the Rev. Mr. Matheson. Gentlemen of the jury, I cannot avoid calling your attention to one fact. As that young man stood in that box, his appearance, his simplicity, the perfect candour with which he gave his evidence was enough to carry conviction to any ordinary man's conscience, and to his judgment, and I was no little surprised to find the Crown in the usual stock manner of actors of that sort to throw doubt on that young man's testimony and make it appear that he was trying to conceal the truth? Gentlemen of the jury, I don't think it was creditable to the Crown, but one thing I do think was creditable to the young man, who stood in that box and stood that badgering and came out victorious, showing himself a gentleman, and an honest man and a Christian through all that was said and insinuated against his evidence, and his evidence stands before you unimpeached, and I challenge the Crown to impeach it in the slightest degree, because that young man could not repeat word for word the speeches of half an hour or an hour that were made by others at that meeting during the four hours, then there must necessarily be suspicion attached to the fact that he remembered what the prisoner said. Why, he told you, as minister of the gospel, that he visited the prisoner when he was in prison, at the time that his Master, from whom he takes his commission, tells him to visit the sick, and the prisoner he visited there, and no doubt that retained in the memory of the minister of God the reason why this man was locked up, and brought to his memory more prominently the things that had been uttered and said about this man at that meeting that night, and that is the reason why he remembered it so well, I have no doubt.

Gentlemen of the jury, I had never had one moment's conversation with the Rev. Mr. Matheson before he came into that box. I have not had two minutes' conversation with him since. I simply spoke to him and shook hands with him as being related to some of my friends at Kildonan, and I did not know what testimony he was going to give, but I am perfectly satisfied that on his testimony alone any jury that is ever sworn would acquit the prisoner at the bar.

Now, gentlemen, what have we next? We have evidence for the Crown of one gentleman who probably may have been sincere, at this distance of time, three or four months after, he may be mixing things up together. There had been a great many meetings with reference to this matter of the people obtaining their rights.

Gentlemen, it may be a crime up there, but when the people around this very town of Regina, when for two or three years they were afraid every day of being ousted off their homesteads, they used to hold meetings, they used to ask for their

rights, and some of them went so far as to say, let the man dare come and put me off my homestead, I was the first man on it. They were right. Speculators had no right to put them off their homesteads. They were there under British laws, which said they have the right to the homesteads under the circumstances.

They might have brought him up for high treason or low treason, for it is a very low kind of treason to ask anything from the Minister of the Interior. There were a great many meetings up there. A gentleman with a full beard (a bad characteristic in a man)—he had been at other meetings where there was deep sympathy between these men of the same country, between the half-breeds speaking English and those speaking French—deep sympathy in trying to obtain redress from the Government, and I have no doubt there were three cheers given for Riel, but I doubt whether there were three cheers given for Sir David L. Macpherson. They looked upon Riel as the man assisting them in getting their rights, I have not the slightest doubt, and I have no hesitation in saying had I been there it might have been treason, but I would have given three cheers for any man who was going to assist me and friends to obtain rights I had by law, and which those who had the dispensing of the laws had failed to carry out.

Well, gentlemen, taking that view, I can understand why it was that gentleman said that at that particular meeting where treason present, three cheers given for delegates and three for Riel.

Now, gentlemen, it is a very strange thing, and that is the only way that I can explain it, not to directly charge that man with stating that which he knows to be an untrue charge, charging him with direct deliberate falsehood, which I did not feel inclined to do. I rather think the man has mixed that meeting with some other and that he was simply mistaken, because all the other witnesses you have who were present at that meeting tell you positively no such thing took place. One of the witnesses tells you young fellows outside were cheering. Well, we are not children, and we have often attended public meetings and public gatherings, and I would like to know if you ever left one yet where there was not some young boy or enthusiast in the crowd, as he got outside the door was not ready to throw up his hat, hurrah for anything and everything and everybody? A little school boy, during the civil war, was running around the streets shouting hurrah for Jefferson. A soldier replied, hurrah for the devil. All right the boy said, hurrah for the devil. To bring that as a charge against a man without trying to make it appear that he was a man who proposed the cheers, or who responded to them, is certainly going into microscopic kind of evidence to bring to support a charge against a man on his trial for a crime, punishment for which is imprisonment for life.

Now, with reference to the contents of that letter, what have we? It says, we are sending a petition, and we hope to be able to prevent bloodshed. "The voice of every man was with you," so the document got up, sent at the request of Major Crozier. "All our sympathies are with you." That is the evidence given by the witness for the Crown, and he pulled the document out of his own pocket. Now, why is it treason that this uneducated man should say "the voice of everybody was with you" at the same time that that other educated man said "we all sympathize with you;" but one is a criminal and the other is a man brought up as an evidence of loyalty to the Crown for the purpose of trying to make a victim of this man Scott, "and we have taken steps which I think will have a tendency to stop bloodshed and hasten a treaty." There is this treaty again. Why the word "treaty?" This man is a trader. Two-thirds of those people are traders, and they have been in the habit, during the greater part of their time and lives, of dealing with Indians. Now, all those who understand anything about the customs of this country, everything that is done with an Indian is a treaty, and everything that took place, a bargain between half-breeds is a treaty. They are all treaties. They don't understand the significance of the word otherwise. They are all treaties. It was like the learned counsel for the Crown trying to take advantage of those poor men who could not speak English, and trying, by putting words in their mouth, to make them, if possible, commit themselves, so as to give evidence that would tell against the prisoner at the bar.

Gentlemen of the jury, my learned friend made an observation to-day that I don't intend to answer on my own part. I have been, as he says, thirty years at the bar, and he may comment on my conduct as much as he pleases. I am not myself when I am standing at the bar. I am in the place of my client, the prisoner. His case is mine. I place myself in his place. I take the whole responsibility that can be thrown on his shoulders, and so long as God is kind enough to spare my life and energy, I will use every effort and legal means at my power that it is possible for me to do to save myself, in other words, my other self, my client, from the consequences of attacks like this; but it is strange my learned friend did not, at the same time, see that he was exerting an extraordinary influence. It is no part of the duty of a Crown counsel, and I can speak with knowledge of it, for I have stood in that position for years—it is no part of the duty of a Crown officer, or of a court of British justice, to try and convict a man unless he is so guilty that there can be no doubt as to his guilt, no more doubt than there is that you see the sun shining through that pane of glass yonder, and why try by corkscrew methods and undue means to screw out evidence to convict a man? It shows justice is being prostrated in some way, and that vengeance is the object in view and not justice, to the man charged before the court. Gentlemen, this is a case where the interests of the Crown and the interests of society are one. In ordinary cases of larceny and cases of that sort, the prisoner is charged with an outrage, with a crime against society; but in a case of treason or misprision of treason or treason-felony it is a direct charge, in which the Crown says: You have committed an outrage against me; and that is just why the British law, in its amendment, since the time of the passing of that infamous Act called the Treason Act—that is just the reason, that as England became more civilized, as England began to come out from the path of blood in which she had been bathing for a hundred years, when a man was as much hung for stealing a sheep as he was for murdering his father; when a man was as much hanged, executed, drawn and fettered, for stealing a three-penny piece as he was for cutting the throat of his grandmother; when, in fact, out of a lot of crimes that were brought before the courts of justice, no less than 240 of them were capital offences, for which a man was hanged, drawn and fettered. When that bloody epoch began to pass, when the people of England came to their senses and said, we have to throw a safeguard around our fellow-subjects, we will not allow them to be convicted before Star Chambers with men in privy council with closed doors, they shall have a jury of twelve men, and those men will stand between the Crown and the subject, our fellow subject who is accused. That is the position you hold to day; but, gentlemen, that British justice has been circumscribed in this North-West Territory, and instead of twelve British subjects, twelve of his peers, this man is to be tried by six; but, gentlemen, take that view of the case, and in the name of British justice, in the name of British law, in the name of the oath and Him by whose name you take that oath, consider each of yourselves two British subjects and let the souls of twelve men enter your six breasts, and do justice to that man, notwithstanding everything that can be done by the Crown to convict him whether guilty or not guilty. That is what they are doing.

Now, gentlemen, supposing that everything that is in that paper; first, that that paper was brought home to the prisoner at the bar, that every word is written by the prisoner at the bar, that the prisoner at the bar had handed it to Louis Riel, is he any more guilty than Major Crozier? Is he any more guilty than that witness for the Crown, Mr. Craig? Is he any more guilty than Mr. Craig who passed those resolutions? Is he any more guilty than the Rev. Mr. Matheson, acting at the suggestion of the authorities? Is he any more guilty than any of those who tried to prevent bloodshed? Oh, but the learned counsel for the Crown has been ringing the changes again—to force Her Majesty to make a treaty, to force Her Majesty to make a treaty. Then, we have to understand that Her Majesty has left Europe, and she has come to America, she has gone down to Carlton, she has taken a seat upon a trooper's horse and she is represented there by Major Crozier.

Gentlemen, you see how absurd is this law of treason. It is absurdity on the

face of it, and I trust the day is not far distant in Canada when we will have something like a reasonable Act passed and will do away with this old nonsense of a hundred years ago. Do you know the effect it has on the Indians? Poor One Arrow when he had the indictment read to him the other day, had it read to him in Cree, and the Cree can as much find words with which or by which to translate the lot of nonsensical terms that are used in treason, as nonsensical as you could find in low Dutch, at the present minute words to translate everything that I am saying, the result is that Her Majesty's Crown is translated into Cree as Her Majesty's war bonnet with feathers in it; this is a fact. Her Majesty's war bonnet was knocked off her head and she was kicked and struck, with a pistol by the poor old man, and when the poor old man got out into the hall he said who was that drunken man who kicked off Her Majesty's war bonnet? You are the one, was the answer. Oh, I never seen Her Majesty. There is a commentary exactly upon what these poor wretches know about the laws of England, and the words in which they are brought before you in these indictments. So I beg of you not be led astray by the simple wording, the garbage that surrounds the one fact. The fact for you to determine, gentlemen, is this, is there evidence before you to show that the prisoner at the bar was intentionally, designedly and determinedly a disloyal man, and that he went to the camp at Batoche for the purpose of giving aid, and comfort to the enemy, or have you not the positive assertion that while he was there, even when threatened with his life, he said, I am now with you, we sympathize with you in the demand for your rights, but we are against you, and I am personally against you entirely when you resort to arms or to any illegal means. He was told by the lunatic who was acting the part of a Nero as far as he could, I have sentenced my cousin to death, what can you expect? and it was after that the prisoner at the bar told him he sympathized with them in their right, but I am personally against you in any illegal act. But the Crown brought you to the camp, and the Crown brought me to the camp and that is the way we got in the camp. But how is it, if his going there was such a crime, how is it that Mr. McKay is not arrested and imprisoned? How is it Hilliard Mitchell is not arrested and imprisoned? He went there to find out what was going on? How is it that Ross is not a prisoner charged with treason? Why was this man singled out specially? The law says, and my learned friend knows it, that in this matter one was as much guilty as the other, that all parties communicating with rebels, knowing them to be rebels, they were all equally guilty with others, but they tried to make it appear before this man went, before that delegation went, that they all knew that there was an open rebellion; they failed to prove it *in toto*, their own witnesses tell you they heard there was something wrong, they were sent there for the purpose of finding out, and Major Crozier had heard that there was something wrong, and he sent Mr. McKay, and Mr. Matheson was communicated with by Mr. McKay and Mr. Matheson communicated with that other gentleman who acted as secretary of the meeting, and they got up meetings, to do what? To try and keep the English half-breeds neutral. Now, if it is a treasonable act to try and keep them neutral, all these gentlemen should have been indicted and should have stood in that dock to-day—every one of them. But one gentleman says that Scott wanted them to lay down their arms. You have that contradicted by every other witness. What Scott did say and what Scott says still, and what I am authorized to say for Scott is this: Scott said, here in this Ridge it is open to any attack. Prince Albert is the heart of the whole district. This Carlton is a Hudson Bay post away a considerable distance, and why all the troops should be taken away from a thickly settled town and a thickly settled country to save a Hudson Bay post and leave the whole of the rest open to the Indians and French half breeds, is more than I can conceive, except that the French's bacon and the ham and the barrel of sugar and everything of that sort that belonged to the Hudson Bay Company and were in the Hudson Bay post was of more importance to the authorities than the lives of the peaceable inhabitants that they were going to leave unprotected. Scott, at that meeting, said I think this is wrong. Here we have the Ridge right on the road between the French and the Indians and Prince Albert. If they come on Prince Albert, all the fighting men are gone, all

the arms are gone, it will be much better that they come back from that Hudson Bay fort, that they make their place at Prince Albert and defend the people, and then there will be an easy access to them and we can assist them; but he does more than that. He sends a despatch to the authorities offering the services of 100 men, or 150 men, to fight against the half-breeds and Indians in support of the British flag and to suppress that rebellion. There is a slight comment made upon that, but let us draw your attention to this. That was after the fight at Duck Lake, immediately after the fight, when the whole of the people of the country were in a state of terror, when—I deeply grieve to say it—the French were for the moment victorious, and when flushed with victory it was just as likely as not they would attack anybody or everybody around. That was a time when a man who was wavering in his allegiance would have rushed forward and joined the French because they were the triumphant party and done inestimable harm. But what have we? We have proof that, then, in the darkest hour of the whole rebellion, this man, who is charged with treason, went to the nearest telegraph office and telegraphed to the highest authority that he knew, through an official operator, offering the services of 100 men, or 150 men, in defence of the country. Gentlemen, I think it would be almost offering you an insult to ask you if, under those circumstances, you can find in the slightest possible degree, anything approaching to criminality against the prisoner at the bar. I simply warn you of this, that the prisoner at the bar being charged, that charge unless proved against him by the Crown, must fall to the ground. The Crown is bound to produce the best evidence in every case. If anything disloyal took place there in that camp at Batoche, the best evidence that the Crown could have produced would have been Garnot and Louis Riel. If the Crown wanted to prove that man's signature, surely the man who has resided seven, eight, nine or ten years up at Prince Albert, whose signatures have been scattered all over the country and as to which men might have been brought to swear, ought to have been sufficiently well known; but they had to send for the sweep at the post office, Winnipeg, to try and show that a certain postmaster's signature was like that. And that is called Crown evidence.

Gentlemen of the jury, I will now leave the case entirely in your hands, so far as we are concerned. When our labors cease, then, indeed, your labors begin. When the humble efforts that have been made by the counsel for the defence, when they cease, and his duty is done, then your responsibility indeed begins.

I ask you, gentlemen of the jury, to divest yourself of every other feeling, political and national, of every feeling but that of straightforward honest manhood, and I ask you, each and every one of you, in imagination to put yourself in the position that this man is in to-day, and in that position look across to the jury box where you sit now, and measure every man's heart by his eyes, looking at every man's soul by its windows, and see how you would be trembling as to what might be the result and trying to read from the face of the jury how every man felt in your case, and what was going to be his verdict. Gentlemen, feel the same for the prisoner at the bar. I ask for no sympathy; a jury has no sympathy to give. They have simple justice to give, and justice is all we demand. We ask for your verdict, the verdict of twelve honest men placed in the hearts and in the breasts of six honest men. We ask the verdict of a British jury, and we ask at your hands a verdict that will send us back to our family, our character untarnished, our allegiance and our honor never again to be mistaken and to be called traitorship, treason to our flag or to the country in which we were born.

ADDRESS OF THE CROWN COUNSEL.

Mr. Osler.—May it please your Honors, gentlemen of the jury: It is no part of the duty or the desire of the counsel in charge of the Crown here to press for a verdict of guilty where the facts do not warrant it. We are simply to aid the court and to aid the jury in getting at the truth and in fairly standing between the prisoner and the public. You, after hearing the evidence, are the voice of the public to condemn or acquit. It is a matter of public concern and public interest, and you

are selected as representing the public to pass upon the evidence and to say whether the conduct of the prisoner is criminal or not. I regret very much to say that the course of the defence in this case has not been that course which one would desire, where one seeks to get at the truth. It is equally the duty of counsel for the defence to aid in getting at the truth. That is what all skilled lawyers—all lawyers are simply skilled agents—to endeavor fairly to winnow the truth from the fiction and see really where the facts of the case lie.

Now, I am going to ask you, notwithstanding the extraordinary conduct of the learned counsel on the other side, I am going to ask you not to charge that extraordinary conduct upon the prisoner at the bar, but give him the benefit of every doubt and every circumstance in his favor, notwithstanding the fact that his counsel here who has been identifying himself with him has been talking treason to you yesterday and to-day, justifying rebellion and justifying all manner of illegal proceedings. Don't charge the prisoner with that; only charge him with the evidence that is against him. Don't charge him with the inconsistent positions that his counsel has taken, nor charge the prisoner with the cowardly conduct of the learned counsel in abusing the witnesses for the Crown who did not deserve it by anything coming out from cross-examination. What more cowardly, what more likely to transfer sympathy from the prisoner in the dock than his attack on young Mr. Tuck, from Winnipeg post office, sent up here, a respectable man from Winnipeg, a son of Judge Tuck, of New Brunswick, in a situation in the post office, sent up here to produce simply some papers on file in the office there? How can a man justify that conduct, which cannot be more mean or cowardly—

Mr. Clarke.—I won't allow those words "mean or cowardly" to be used to me. I tell my learned friend he will have to answer for it in another place.

Mr. Osler—than to attack a man unable to answer for himself, who is in the hands of the counsel, who cannot say one word in his own defence? That attack was made and reiterated for the purpose of humiliating a man who certainly has not deserved the attack at all. And the same as to the witness Astley. What has Mr. Astley said or done that he should have been attacked in the way that he has been attacked? Let a man attack another where he deserves attack, or if it is a question of doubt, let him attack him where matters can be answered, but where the witness' mouth is dumb, it is a great infringement of the privilege of a counsel to abuse, as these two witnesses have been abused. My learned friend or the learned counsel may have been carried away by the warmth of his feeling, by error in judgment. He may have been carried away by the warmth of his feeling, in abusing in so personal a manner the Government, the members of the Government, and naming Sir David Macpherson to you in the way he has—I don't know what my learned friend's politics may be; but I have never heard from the strongest orator on the Reform side any such abuse as I have heard from the learned counsel, who, I think, is a strong supporter of the Conservative Government.

Mr. Clarke.—You are mistaken, and I wish you to understand it.

Mr. Osler.—Then so much the worse for the Reform party.

Mr. Clarke.—And I am not a supporter of the Reform party—I am a free man.

Mr. Osler.—Now, gentlemen, I want you to understand further as to these prosecutions, that the responsibility of prosecuting Thomas Scott, the responsibility of prosecuting each one rests on the Crown counsel who have been assigned to conduct the State trials, and as far as we are concerned, we have no political motive to serve. We have had only to judge, sitting to some extent as a grand jury—before we put any man on his trial we have to judge whether the evidence justifies putting any man upon his trial, and we have been untrammelled, I may say to you, by any instructions whatever, as to whom to prosecute or whom to let go.

Now, with these preliminary remarks, which I regret to have to make, but I think I would be remiss in my duty if I did not make them after the conduct of the learned counsel on the other side—let us fairly and quietly consider the evidence of guilt against the prisoner. Have we brought it home to him without reasonable doubt? If we have not, then the authorities are better pleased that there is one more loyal subject proved to exist.

Now, no doubt a good deal depends upon the view you take as to the evidence of proof of the handwriting of Thomas Scott in the letter of the 23rd March. The defence have made a strong point in denying the genuineness of that letter: They seem to feel that if that letter is brought home to them that it is a very dangerous document and that it puts them in peril, and so, as they have a right to do, they deny the authenticity of that letter: Well, gentlemen, the Crown have to prove it, and they have to prove it to your perfect satisfaction, and if they have not proved it, and don't prove it to your entire satisfaction, you must eliminate it from the consideration of the evidence in the case.

Now a letter or document is ordinarily best proved by a man who saw it written, but inasmuch as it frequently happens that a paper is to be proved which nobody has seen the prisoner or a person write, the law gives methods of proof which we have endeavored to follow in this case—and I may heresay that my learned friend is speaking apart from any authority in law, or he is misunderstanding the authorities in law, when he argues to you about the best evidence. There are two classes of evidence, primary and secondary, and the rule always is that you must give primary evidence where you can, and give secondary evidence where you cannot; but there are no degrees in primary evidence, no degrees in secondary evidence, and that is the only rule which justifies my learned friend's harangue upon the best evidence. He talked—with deference to him—a good deal of nonsense upon that. The Crown is not bound to produce Louis Riel or Philip Garnot to prove what? To prove that that letter was received in the rebel camp. We have proved it conclusively, as to its receipt by a man who found it there, and whose evidence is not disputed. My learned friend ought to know that Louis Riel, a condemned criminal under sentence of death, is an incompetent witness in any court, and could not be called or heard. As to his remark about calling Philip Garnot, could Garnot tell us that it was Scott's handwriting? All he could tell us was what Capt. Young told us, that the letter was received and found in the rebel camp. Then, gentlemen, how do we proceed to prove that letter? It has to be proved by comparison of handwriting. Now, we prove as a matter of fact to you, and it is not disputed, that at Kirkpatrick post office the man was postmaster. We prove the various signatures of Thomas Scott, the postmaster there, on the official file of the Post Office Department in Winnipeg, produced by the clerk properly in charge of that file. There, on file, are the official returns, the bond and the other documents signed by the postmaster at that post office, whose name was Thomas Scott. Now, when we prove that Thomas Scott *de facto* held that office and acted as postmaster, the law presumes that he was postmaster until the contrary is shown. There is a presumption that when his Honor sits on the bench, he is duly commissioned as a stipendiary magistrate and he need not produce his commission before he sentences or acts in the administration of justice. He is presumed to be of that office until the contrary is shown. So where a postmaster holds office he is held by law to be that officer until it is contradicted by evidence. Now, then, gentlemen, we have that fact then, and we have the signatures here produced. We have also produced to you a signature of the prisoner, three signatures of the prisoner and a due bill and a letter produced by the witnesses here from Prince Albert, and there identified, positively as the handwriting of the prisoner.

Now, gentlemen, these papers will be given to you, and you will have an opportunity of comparing the handwriting yourselves. I have formally to put in a witness to show that the paper that I propose to prove is in the handwriting of the acknowledged originals, but the evidence that I rely on chiefly is the evidence of comparison by intelligent jurymen, and whenever I have established formally by any witness that these writings agree, then I can supplement that by asking the jury to take the writings with them when they retire and satisfy themselves upon examination of the verified originals with the paper that is proposed to be proved, that they are in the handwriting of the man charged. Now, that is what I ask you to do, and I greatly rely upon your intelligence and upon your inspection of those documents.

I never saw an expert witness yet on handwriting that could not be caught by a close imitation, and I expected my learned friends to play the old trick with the witness, Mr. Lunen. A man will, who sits down to imitate, can, no doubt, imitate very closely, especially where the signature is that of a man who is not engaged every day in writing. Well then, gentlemen, you can always consider as confirmatory evidence of the writing, what it contains. Is it what Thomas Scott was likely to have written from the other circumstances surrounding it, or is it not? Is it consistent with his other conduct? Is it likely that some other Thomas Scott whom we have never heard of would have forged such a letter and sent it into the rebel camp? How can my learned friends suggest that it belongs to any other Thomas Scott, when he put Thomas Scott's own brother-in-law, Mr. Miller into that box and he could have put that letter in his hand and asked him, is or is not that Thomas Scott's handwriting, and if it was not Thomas Scott's handwriting, could not his brother-in-law have said it was not? Well, now, gentlemen, look at the date of the letter of the 23rd March; look at the date of the letter with reference to the dates of the meeting—fitting in exactly. Look at the sentiments in the letter, with reference to the sentiments of Scott, that Scott was known to hold. Don't the sentiments fit in exactly?

Now, if Thomas Scott who is proved to be the only Thomas Scott at the Ridge, no other Thomas Scott there to write about—if he did not write that, who did? Does my learned friend suggest that some man with malice in his heart has forged a letter in order that it might be captured by the royal troops and then used as evidence against this man, of treason? Would so complex a scheme have escaped; would it not have been developed if such had existed? Bring your common sense, gentlemen, then to bear upon the subject. Look at the letter as it stands. Compare it with the original writings produced, and then, after all, if you say it must be rejected, if that satisfies your conscience, and you thus reject it, don't reject the evidence that goes to show cogently the authenticity of this letter. Well, then, gentlemen, treating that letter for the purpose of argument, as authentic, what responsibility does it cast upon the prisoner?

Let me give you the decision in an English case, in *King vs. Stone*, where it was objected that the intelligence transmitted to the enemy by the defendant was calculated to dissuade them from invading the country, and was sent with that intent, but Lord Kenyon, chief justice, said that whether the intelligence were calculated to dissuade or invite the enemy was immaterial, if it were such as was likely to prove useful to them, in enabling them to annoy us, to defend themselves or shape their attack.

Now, bear in mind that is the law we invoke. The letter there, as in the case in point, may have been in the interests of dissuading them from attack, but what you have to say is, is that letter aid or comfort, or any assistance in any way to the people then in arms? That is what you have got to decide.

Now, bear in mind that on that 23rd March, loyal men had been taken from the road and from their homes, and had been put in the prisons of Louis Riel, and were held there against their will as prisoners of war. Remember that Thomas Scott knew that. Remember that these men in arms had attacked the stores at Batoche, and looted them. Remember these men in arms had then terrorized the country, and that from what they had done there was the general fear in those who had been their foes, in those who had been their friends, that the whole Indian population would rise and bring trouble, and remember that that was the position, that there was an armed force organized and led against the established Government of the day. Remember, that he says to the leaders of that movement, speaking of the meeting held at Lindsay schoolhouse, to-night the voice of every man was with you. With you in what? In taking the prisoners; in looting the stores; in raising the Indians? "The voice of every man was with you." Who was he aiding and encouraging? The man in rebellion against the Crown; the man who had stood directly opposed to the authorities, and had armed Indians that moment, no doubt, in his camp? "We have taken steps which I think will have a tendency to stop bloodshed and hasten a treaty." Well, what does that mean? It means only

one thing, that by the stand that Louis Riel and his men had taken, by the stand that the English half-breeds under Thomas Scott had taken, they would force the Government into a treaty with them, as an opposing power; there can be no other fair meaning to it, gentlemen; it is what the language calls for, and what the situation proves. He goes on: "and we will communicate with you inside forty-eight hours after you get this; notify us of any steps, if any is likely to take place." Now, this, gentlemen, is after he has gone over there, after he has seen for himself that they are armed, after he has seen for himself that they are in opposition to the Government, what weight will you give to the letter? Will you give it its true English meaning? My learned friend feels that this letter is so strong against him, so clear to prove the case of the Crown, that all he can do is to deny it—he has not even suggested that somebody has forged Thomas Scott's name. Now, it is great responsibility that rests upon a man such as they had in this neighborhood this spring, and that responsibility, that class of responsibility, has rested upon men, from time to time, where treason was fomenting, and the law has said that the only thing that justifies the seemingly acting with people who are in arms against the Government, is absolute and immediate fear of death, not loss of property or anything short of danger to life, justifies a man in parleying with an enemy. If Louis Riel had been told, then and there, you will not only not be supported, but I, Thomas Scott, leader of the English half-breeds, will arm against you, and treat you as a traitorous man, Louis Riel dare not go on, and in all probability the rebellion and the bloodshed would have been prevented; but it was because such a man with such a responsibility dallied with the enemy, kept those men neutral, treated with him, aided him and comforted him with such letters as that, that he knew I have nothing to fear from the majority of the population of this place, I can go on and I can brew all the mischief, I can bring in my Indians, I can capture prisoners, I can set the whole country in a blaze. Why, gentlemen of the jury, the duty was on that man, as leader of men who were loyal by instinct, to stop that thing in its small beginning, and it was by the support, by the aid and by the comfort given by such a man as that, that the rebellion was able to lift its head and the trouble was able to grow to the size and produce the calamities that it has produced, and the English half-breeds far outnumbered the French. He did not know, perhaps, what edged tools he was playing with, for he came to his senses as soon as blood had been shed at Duck Lake. Then he saw where he had placed himself. Then, too late, he, perhaps, repented, wishing to cast aside the odium of treason that was surrounding him, and he endeavors to make himself loyal, but too late, by his telegram offering to raise a company. That is the ready explanation of the subsequent conduct. If, on the 20th March, Thomas Scott had stood up at that meeting and said, gentlemen, the French half-breeds have taken up arms, I want volunteers to put that down, that would have been loyal Thomas Scott. But when the blood was shed, and the treason was out, and he had his own neck to save, the telegraph office was an easy place to go and get it done.

Now, gentlemen, I suggest these matters for your consideration. Are they logic, the logic of the facts that are in evidence before you or are they not? If they are, give them due weight. If they are not, if they are not foundation facts and reasonable deductions from facts, you must not give them any weight simply because I am putting them to you.

Now, gentlemen, if you believe in the letter you have very little further difficulty in the case. If you don't believe in the letter, and throw that out, what are the other facts that are proved? What are the other facts in proof if you throw out the letter? There is the meeting with Mr. Astley. I think you believe Mr. Astley. There are few men, I think, come out of the troubles with a better record or a better name. He has no interest in the matter—do you believe him? And do you believe Mr. Craig, when they say he wanted the volunteers to lay down their arms, and let the police and French fight it out? That is made out by two witnesses, do you believe them? Against those two witnesses, you have the recollection of Mr. Matheson, against whom and against whose evidence I have not a word to say, and I think you

will bear me out when I state that I think I cross examined him fairly and reasonably with a view to get at the truth, and get at the means of recollection only, and I was most unjustly and improperly interfered with in that, interrupted in that cross-examination, the same as in other cross-examinations whenever I reached a vital point, by the learned counsel, Mr. Clarke.

Now, in speaking of the recollection of witnesses, you must bear in mind that Mr. Matheson recollects certain words, and they are perfectly consistent with Mr. Craig's recollection of certain other words. Mr. Matheson is a clergyman, I apprehend, of the congregation to which Mr. Scott belongs, and naturally, deeply interested in the welfare of his parishioner. I won't say for that reason that Mr. Matheson would deviate in one single instance from the truth, but you know what perhaps none of us can resist, the insensible influence of sympathy, and how the insensible influence of sympathy will, with perfect honesty of purpose, color the evidence, especially when it is the evidence of teacher's memory and recollection.

Now, that is all the criticism I have got to make upon Mr. Matheson, whom I believe to be a perfectly honest and sincere man, and honest and truthful in giving his evidence.

As to one other witness who just heard the exact words and nothing more, well, gentlemen, that is the class of witness we often meet in courts of justice, and a man who just hears the vital words and hears nothing more is a man whose memory you are to be very careful about accepting it in full—they are very apt to go astray, that class of men; it is always suspicious where there are just a few vital words wanted to be proved, and there is a man to prove them who heard nothing more, and saw nothing more. In Ontario, they have got to call that class of witness the hay-stack witness, who was behind the hay-stack and heard a few words, and went away just before the vital words.

Now, gentlemen, there is the evidence, the evidence *pro* and *con*, and you have listened to it carefully. I don't know that I need review it further.

Now, just for one moment, the learned counsel seemed to think that we were trying to make treason out of these petitions. We don't for one moment contend that the subject has not the most perfect right to petition how and when he pleases, all we say is—in that series of resolutions the shape of which no doubt was very much influenced by Mr. Scott—that he calls upon the Government in so many words to make a treaty with these men who were in arms. Well, that is no right of petition to redress a grievance, that is in effect a petition to the Government to recognize an enemy in arms and make a treaty with them.

Now I don't know that I need further detain you. I don't know that I should have replied but have left you to consider the question of evidence just aided as it will be by the charge of his Honor on the bench, but I felt that the line—the course of conduct of the defence necessitated a reply, and you must not understand me as asking you in any remarks that I have made, to press unduly or hardly any of the facts that we have brought out against the prisoner. If there is a merciful view consistent with honesty, take it. All I ask you to do is fairly and honestly, in view of your oaths, to consider the evidence against the prisoner; if he is guilty, courageously find him guilty, whatever the consequences may be. If there is a reasonable doubt give him the benefit of it and let him go free.

Court here takes recess for half an hour, and on resuming after recess court proceeds to make the following charge:—

Gentlemen of the jury, we have now arrived at the stage of this case when it comes under your and my consideration, when a duty devolves upon me followed by a duty devolving upon you. I may premise the few remarks I am about to make to you by uttering these as incapable of contradiction, that this is a properly and duly constituted court, British court, under British law, that the constitution of this court as it stands to-day is not under the Act which you have heard spoken of, of 1880, but it is under a Dominion statute based upon an Imperial statute which was passed in 1871. The Canadian Act passed in 1877 fixes, for all criminal cases triable in the North-West Territories the number of jurors at six, and imposes the duty upon the

stipendiary magistrate of selecting suitable persons to sit upon the criminal juries. You must recollect the various branches of legislation connected with the North-West Act taking place between 1871 and 1880, amendments had been made rendering it necessary, in the eyes of Parliament, to consolidate the whole and put it forward in one, but the law itself as then passed was only a consolidation so far as previous Acts were carried forward with some amendments that were found necessary to intersperse throughout it. Having said that much, I further digress for another remark, and that is this, that at some of the earlier stages of this trial—I regret to say—charges were made, or assertions were made, indicating, first, that I was simply a creature, and, secondly, that you, gentlemen, were all creatures. Well, now, true it is I may be a creature, that is, I may hold a commission which may be put back at a moment's notice, but while I do hold it, while I do hold such a commission, I think I feel that until I have shown myself a creature, I am not liable to that charge. On the second part, at a later stage in the case my action however has been endorsed. I selected the jury, gentlemen who were summoned to serve as a jury in this case and in all other cases—I select them from a respectability standpoint, respectability as men in the Dominion of Canada, residents of the Dominion of Canada. I look not at politics, not at religion, not at any branches how one may feel, I simply say, is that a respectable man? Does he bear a character so far as I know in the community? If he does, he is fit to sit on a jury, and having a list of those whom I know and whose characters I have been able to form an opinion upon, a ballot takes place with the result that you have a very important duty, and a very heavy duty to perform. Well, the endorsement of respectability at a later stage in this case has been I am happy to say repeated, and there we now stand, and we now go into our duty.

Now, we have heard a charge preferred at the instance of the Crown, and I ask you for a moment to consider what is the Crown? What is the Queen? Well, now, it is a cardinal principle laid down in the law books that the Queen is the people, and that the people's interests and the King's and Queen's sovereign interests are inseparable, and that following that, while in every criminal charge, the name of the Queen is used; we say that Tom Jones or so-and-so has violated the Queen's law, it is the people's law which he has violated, and a jury are empanelled to say between the people at large and the prisoner charged, whether or not the charge preferred has been substantiated.

Well, in connection with this charge; we have heard what has been adduced on the part of the prosecution, that is on the part of the people at large, and I cannot but say that so far as came under my notice with my very limited knowledge—I don't claim to have seen much. I am a young man yet; I don't profess to be old or to have much experience, but from what little experience I have had, I cannot put my finger down and say that any item of undue severity or undue prosecution, extending to persecution if you will, can be laid at the door of those who have been charged with the prosecution of this charge before this court. On the other hand, the defence have had the widest limit of allowance in putting their case in any shape they desired before you, and that they have done so I think there can be no doubt. It is true that during the progress of the case, I was called upon, sitting here with a responsibility resting upon my shoulders, to rule upon points of evidence as to whether certain questions were properly put, and it may have been unfortunate that in almost every instance as to the questions asked, I was obliged to rule in the one way. That responsibility rests upon me. I know the remarks that were made, but they pass through my ears as having been made on the spur of the moment, and I pay no attention to them, simply feeling that I have done my duty so far as my knowledge of the law and the principles of the law are concerned, that I have put them fairly, and, where my attention has been drawn to something, I have said openly and plainly that it was not a proper question, the question was not put in a proper way for the consideration of the jury.

Now, what is this charge? This charge is not brought upon a statute 200 years old or 100 years old, it is brought upon a statute of Canada passed in the year 1868. This law upon which this charge is framed was introduced and passed by the Parlia-

ment of Canada, and, mind you, at this time neither Manitoba nor the North-West Territories formed a part of the Dominion of Canada then, when it was passed. It became the law of the North-West Territories in 1875. It was introduced and declared to be the law of the North-West Territories in 1875, so that instead of being a very ancient it is really a modern law.

Now, the law says, "whosoever after the passing of this Act, either within Canada or without, compasses, imagines, invents, devises or intends to deprive or depose our Most Gracious Sovereign Lady the Queen, Her heirs or successors from the style, honor and royal name of the Imperial Crown of the United Kingdom or of any other of Her Majesty's dominions or countries, or to levy war against Her Majesty, Her heirs or successors, within any part of the United Kingdom or of Canada, in order to, by force or constraint, compel her to change her measures or counsels, or in order to put any force or constraint upon her to intimidate or overawe both Houses of Parliament or either House of Parliament of the United Kingdom or of Canada, or to move or constrain any foreigner or stranger to invade the United Kingdom, Canada or any other of Her Majesty's dominions under the obeisance of Her Majesty, Her heirs or successors, such compassings, imaginations, inventions, devices and intentions, or any of them, shall express, publish, or declare by public, open or ill-advised speaking or by any overt act or deed, is guilty of treason and liable to be imprisoned in a penitentiary for life or less."

Now, the charge against this prisoner is brought under that clause of that statute; it charges him with first, the knowledge of rebellion or insurrection against the constituted authorities and powers, and it then says, you, Thomas Scott, compassed, imagined, invented, devised or intended, &c., under this verbiage which covers two or three sheets of foolscap paper, reducing it to the smallest possible compass I can find words to express.

Now, to support that, evidence is brought, and I should here tell you I should caution you in your duty that in order to convict the party, the prisoner charged, you ought to be satisfied by the evidence affirmatively as a conviction created in your minds beyond all reasonable doubt, that the guilt of this prisoner is established, that if there is only an impression, a probability, he ought not to be convicted.

Now, the theory put forward by the prosecution in support of this charge, is that this man, Thomas Scott, wrote a certain letter, not only that he wrote a certain letter, but by certain acts and deeds and expressions which he made, he did what would be covered by one or more of the words which I have read from the statute and which are embodied in the charge. Some stress was laid upon what was claimed to be a duty, that in order to support any criminal prosecution, the best evidence must in all cases be adduced. Now, it is true that, as matter of duty devolving upon the Crown prosecutor, he ought to exercise that duty, and to adduce before the people, the public at large, the best evidence which in his judgment is attainable; but it does not follow, and it is the opposite of following that, because I may think, or somebody else may think, that better evidence than was adduced, than has been adduced, could have been adduced by some means—it does not follow that you, as a jury, or I am to take upon myself the responsibility of saying you ought to have adduced better, and that therefore the prisoner charged with a crime is to go scot free; you have to determine the case, the juries have to determine every criminal case upon the evidence which is actually brought before them in that case.

Now, what is the evidence in this case? I should premise by saying to you that I don't propose to worry your patience with reading over the whole of the evidence which has been taken and adduced. I think it must have been impressed upon your minds, the substance of it, and unless desired, particularly desired by you that I should do so, I only purpose referring to it in a general and cursory way. Well, what is the evidence? Well, before I give you a cursory view of the evidence, I ought to tell you that the responsibility of determining upon the evidence, upon the credibility of the evidence is your duty, the responsibility rests upon you, you are there, and I have nothing to do with it; my duty extends simply to telling you what the law is, and to refresh your minds and give you such general ideas as I can as

would help you in arriving at a proper conclusion.

Well, subject to the remarks I have made, the evidence consists generally of his actions described by the different witnesses. First, in the report that came under my notice was what happened when they met Capt. Moore. You will recollect that was spoken of by Mr. Astley, and whether fortunate or unfortunate, no other witness is shown to have been present than these two, and it may possibly be unlucky that Capt. Moore is not at present in the country, he having left soon after, seriously hurt, and gone out of the country; but the question then comes, do you believe that man? Do you believe that he, standing in that box, uttered a deliberate falsehood? If you do, there is an end of that part of it; if you don't—if you believe that he told the truth, there that thing stands.

The next point which came up was the letter. Now was that letter proved? Was his signature proved? The objection taken to it was that it was not proved in a proper way, or rather the contention is that it was not proved; but it is for you to say whether it is proved to your satisfaction or not. It is true that no one has been brought forward here to say that he saw that man write, but evidence was given which I must say, which I am bound to say, was proper and should go to you for your consideration from which you must form the opinion whether that is the prisoner's signature or not. The evidence consists of this—perhaps drifting a little bit—where written instruments are produced on criminal trials, unless the validity of the instrument which is produced is in contest, unless it is in contest, the actual witness need not be produced, and proof of his handwriting may be given in the ordinary way in which a note or any document or contract could be proved in a civil court of justice—that is, that a witness would be called, who would say I know the parties—the name of the parties to that, I have seen them write, and from my own knowledge of the handwriting, I believe the signature on the paper shown to me to be his; and then the criminal law goes a little further. Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine shall be permitted to be made by the witness, and such writings, and the evidence of witnesses respecting the same may be submitted to the court and jury as evidence of the genuineness or otherwise of the writing in dispute.

Now, it is in evidence before you—it is claimed by the prosecution, and the evidence, if believed, I think can result in no two opinions on that point, that this prisoner was a postmaster, that his duty as such postmaster he had first to give certain securities—certain bonds, and further, in the execution of his duty after his appointment, he had to make certain returns or put his name on way-bills, on mails passing through his office. Now documents purporting on their face to be those are produced by a gentleman who tells us what? He tells us he is a clerk not in the Winnipeg post office you must recollect, but in the post office inspector's office, Winnipeg, the place where postmasters' bonds are deposited, and being a clerk, and producing, as he says, from the proper office as the proper custodian, producing before the court official documents, original documents, which are deposited in that inspector's or that public office. Well, that evidence having been brought before you, and I tell you that as matter of law they were brought here, if he is to be believed, he was a proper officer for being entrusted with them and bringing them here. If that is credited, then you have that. You have further, you have the statement of McNiven, and I think another. McNiven is the one who produces a due bill, and if he is to be believed, the letter was undoubtedly signed by this man. Then you have some further evidence of parties who prove signatures to another document in addition to that. You have what is termed expert evidence. You have the evidence of Mr. Lunen, who gave you his impressions from a comparison of the several handwritings. Against that, however, it must not be forgotten that some contra evidence has been called, for you must recollect that the witness Ross who was called by the defence, in the box said Mr. Lunen was not right, because to one of them he, that witness, put Thomas Scott's name to—that is a matter for consideration. Taking it all in all, as I tell you, the duty devolves upon you of saying what you believe. Do you believe and are you reasonably con-

vinced, and are you convinced beyond all reasonable doubt that that letter which is one of the principal foundations of the charge was written by this prisoner? Well, then follows the question, from the evidence that you have heard, are you convinced of these points? Was there open rebellion, was there rebellion in existence then against the constituted authorities? You have heard of the date being fixed as the 18th March; you have further dates being fixed of common report carrying down what that state of open and armed rebellion at Batoche and neighborhood where this prisoner was, was two days afterwards, and you have some evidence, some expressions, which, if they are to be believed, identify this prisoner with some knowledge of at least of that.

Well, following that, we have the prisoner's presence at Batoche, and you have heard with your own lips what transpired at Batoche between the rebel leaders, so-called, and him.

You have before you further evidence to consider the results, and what occurred at those meetings, and you have them not only explained in words from witnesses' memory and recollection, but you have them as the product of one meeting, at least—some of the witnesses speak of two or three. You have them condensed in a document, in a paper which has been proved as asserted, and, as it comes from his own witnesses, I assume it will be taken as an original and as a proper document.

Now, upon the face of those, and in the face of what you have heard, the question is simply put to you, are you satisfied by this evidence affirmatively as a conviction created in your minds beyond all reasonable doubt that this prisoner was a party to those documents, to that letter? If so, from a legal standpoint, I must tell you that there is evidence sufficient to sustain a conviction upon the law which I have read to you. If, on the other hand, you are not satisfied, either of his handwriting or of his complicity in this, his giving assistance to these rebels, then you have just as plain a duty in his interests and in the interests of the community, to say he did not assist, did not compass in the grievous and terrible acts of which we all know perhaps too much.

I don't think that I should longer detain you. I think I have put the case, the leading features of the case fairly before a reasonable jury, and having put them before you, I shall now place in your hands the original papers, the documents which have been produced and filed. There are two sets of documents; and with this simple further remark that, if after considering the thing, considering the whole thing, you cannot come to the conclusion, I name but a doubt, and mind you it must be a reasonable doubt, not one which may be suggested to you, but a reasonable doubt which strikes your conscience that guilt has not been brought home to him, then he ought to be acquitted. On the other hand, if it is clear, he ought to be convicted.

Jury retire at 2 p. m., and return at 2.30 with verdict of "not guilty."

Mr. Osler.—The Crown have nothing further against prisoner.

Court.—Thomas Scott, the jury have acquitted you, and I tell you one thing, it is far greater pleasure to me to tell you to go free than to have the unfortunate duty of passing sentence on you.

Exhibits returned to both parties at request of counsel.

Court then adjourned.

QUEEN vs. BIG BEAR.

CANADA:
North-West Territories, }

The information and complaint of Richard Burton Deane, of the town of Regina, in the North-West Territories of Canada, superintendent in the North-West Mounted Police, taken the third day of September, in the year of Our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories, who saith:—

1. That Mis-ta-hah-mus-quah, otherwise called Big Bear, not regarding the duty

of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does, and of right ought to bear towards our said Lady the Queen, on the second day of April, in the year of Our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers other evil disposed persons to the said Richard Burton Deane unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within Canada, in order, by force and constraint, to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention, then feloniously and wickedly did express, utter and declare, by divers overt acts and deeds hereinafter mentioned, that is to say:—In order to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Mis-ta-hah-mis-qua, otherwise called Big Bear, afterwards, to wit, on the second day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at and near the locality called Frog Lake, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Richard Burton Deane unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further to fulfil, perfect and bring to effect his felonious intention, compassing, imagination, invention, device and intention aforesaid, he, the said Mis-ta-hah-mus-qua, otherwise called Big Bear, afterwards, to wit, on the 17th day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Fort Pitt, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Richard Burton Deane unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Mis-ta-hah-mus-qua, otherwise called Big Bear, afterwards, to wit, on the twenty-first day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Frog Lake, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Richard Burton Deane unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Mis-ta-hah-mus-qua, otherwise called Big Bear, afterwards, to wit, on the twenty-eighth day of May, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Frenchman's Butte, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Richard Burton Deane unknown, to raise, make and levy insurrection against our said Lady the Queen, within this realm, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

Sworn before me, the day and year first above
mentioned, at the town of Regina, in the
North-West Territories of Canada.

R. BURTON DEANE.

HUGH RICHARDSON,

Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice, that you have the option of being tried before a stipendiary magistrate and a justice of the peace with the intervention of a jury of six, or before a stipendiary magistrate in a summary way without the intervention of a jury. Which do you elect?

Friday, 11th September, 1885, before Hugh Richardson, Esquire, and Henry Fisher, Esquire, stipendiary magistrate and justice of the peace respectively. Messrs. D. L. Scott and W. C. Hamilton appear for the Crown.

Mr. F. B. Robertson for the prisoner.

Mr. Peter Hourie sworn as Cree interpreter.

Prisoner was charged as contained in the above information on 3rd September, 1885.

Court.—Do you recollect, prisoner, being charged by me with committing crime?

Prisoner.—Yes.

Court.—Do you recollect the nature of the charge, what the charge was?

Prisoner.—I don't recollect it, nor did I understand what was the charge laid against me.

Court.—Then you are charged to-day that you, not regarding the duty of your allegiance which you owe to the Queen, with other evil-disposed persons, compassed to levy war against the Queen in Canada, and on the 2nd April you did so at Frog Lake, on the 17th April you did so at Fort Pitt, and subsequently, on the 28th, at Loon Creek; and take notice, that you have the option of being tried by a stipendiary Magistrate alone, or by a stipendiary magistrate with a justice of the peace and a jury of six. Which do you elect?

Prisoner.—A judge with a jury.

Court is now opened.

Mr. Watson, the clerk, reads the information to the prisoner, and it is thereupon interpreted to the prisoner in Cree.

To prisoner—Are you “guilty” or “not guilty”?

Prisoner.—“Not guilty.”

Clerk.—Are you ready for your trial?

Mr. Robertson.—Quite ready.

Clerk.—These good men you shall now hear called are those that are to pass between our Sovereign Lady the Queen and you; if, therefore, you challenge them or any of them you must challenge them when they come to the book to be sworn, before they are sworn, and they shall be heard.

Jury called and sworn, composed of Albert Smith, Henry Grove, William Hunt, Robert Martin, John Morrison, J. W. Smith.

Information is now read to the jury.—On this charge the prisoner has pleaded “not guilty,” and it is your duty to hearken to the evidence.

Mr. Scott.—May it please your Honors, gentlemen of the jury: The charge which you have just heard read is what is known as a charge of treason-felony. In substance it alleges that the prisoner, along with others, certain other persons, designed and intended to levy war against Her Majesty, which means the lawfully constituted government of the country, and that he expressed and uttered that desire, showed it conclusively by certain overt acts which are set forth in the charge. The difference between the crime of treason-felony and the higher crime of treason is this: that in treason it is necessary to show that the prisoner charged with such a crime actually levied war; in treason-felony it is only necessary to show that he designed and intended to levy war—that is, it is not necessary to show that he levied war, but that he merely intended to do so. You will see by the evidence given in this case that we go further than actually necessary. We show that he not only designed to levy war, but that he actually did it, and that is the best evidence of intention—the fact that he actually did levy war. There is a difference, too, in the punishment. For the charge of treason upon conviction there must necessarily follow a sentence of death. Upon a charge of treason-felony the punishment is not so severe. It may be imprisonment for life or may be imprisonment for any lesser term that the court may think proper to inflict—that is, it may be imprisonment for anything from a day up to imprisonment for life. Now, the four charges that are set out, the four overt acts that are set out in this charge are these: In the first place, that on the 2nd April at Frog Lake he conspired with others to levy war, on the 17th April at Fort Pitt he conspired in the same manner; on the 21st at or

near Frog Lake, and the 28th May at Frenchman's Butte. Before describing the particular overt acts, it may be necessary to say something about the rebellion in the north. It is not necessary for me to mention any of the circumstances connected with that rebellion, because the whole matter from beginning to end is now almost a matter of history. The circumstances are, just as well known to you, in fact better known to you, than you will hear from evidence to-day. It will be necessary to give formal proof that about the 18th March rebellion did break out in the north, and from that day until the 12th May following the whole country in the neighborhood of Duck Lake and Batoche, on the South Saskatchewan, was in a blaze of rebellion. Although it may not be possible for us to show any connection existed between the rebellion that we allege was carried on by the prisoner and others in the neighborhood of Frog Lake and Fort Pitt, it may be brought to your attention the fact that a rebellion actually existed at a very sort distance from that, and convey to your minds the conclusion that there was a connection between the rebellion at Duck Lake and the rebellion carried on by the prisoner and the party with whom he was connected.

The prisoner is the chief of a band of Cree Indians who occupy a reserve in the neighborhood of Frog Lake. He is one of three parties whose names stand out prominently in the history of the late rebellion as being the leader of it, in the different parts of the country. It is possible we will show that this man was chief of a band who was in rebellion; it is possible that we may not be able to show that he was the leader of the movement in that part of the country. It is possible, in speaking of the outrage at Frog Lake, the massacre which took place on the 2nd day of April, which is one of the charges against the prisoner, it is possible that the defence may show, make it appear to you from the evidence, that he was not, that he did not go so far in committing those outrages as some members of his band; that he possibly may not have intended that massacre should have been committed on that day; that it may have been his intention then and afterwards during the rebellion to preserve the lives of the prisoners that may have fallen into his hands. It is possible that this may be shown. It is possible, further, that it may be shown, that at least to a certain extent to his efforts on behalf of the prisoners, the prisoners owe their lives; but, gentlemen, although that may be shown, it is not a question for you to consider. It is a question to be considered in mitigation of the punishment to be inflicted upon him if shown to be connected with that rebellion. You must understand, that if he were acting with these parties at that time in open rebellion against the Government of the country, and he continued to act afterwards with them in that rebellion, that is nothing, as far as this offence is concerned, whether he wanted to go the length that perhaps some of his band and others joined with him wanted to go; even if he wanted to save the lives of the prisoners, it is none the less the fact that he was in open rebellion against the Government of the country, and ought to be punished for that offence. Of course, the punishment awarded may be mitigated to some extent on that account.

Now, gentlemen, the four overt acts I have alluded to are these: 1. At the massacre of Frog Lake, 2nd April. You have all heard the particulars of that—the brutal outrage was committed on that occasion by the band who were in open rebellion. We will show that they were in rebellion at that time, and they afterwards continued in rebellion until some time in the latter end of May or in the month of June last. 2. The second offence was on the 17th April, at the time of the capture of Fort Pitt. After committing the outrage at Frog Lake on the 2nd April, they appeared before Fort Pitt, and the police having withdrawn down the river that day, they entered the fort, and sacked the fort and the buildings in connection with it. 3. Upon the 21st April, somewhere in the neighborhood of Frog Lake, to which place they returned after sacking at Fort Pitt, and a letter was dictated by the prisoner and a half-breed who was then in camp with them, a half breed named Montour and another half-breed named Nault. We will show, that on one occasion about that date, a letter was dictated to a French half-breed living at some distance from the place they were then camped. We may not be able to show the contents of that letter, but from the conversation that ensued at the time the letter was

written, we will be able to give you a pretty good idea of what the contents of that letter were or were intended to be, and what the intention of the prisoner and the others who were present was in writing that letter. 4. On the 28th May, the last overt act charged was committed. The prisoner and those who were with him met the troops at the neighborhood of a place called Frenchman's Butte, and there engaged with the volunteers of the Dominion, under the command of General Strange, and were, in fact, in open war, on that occasion, against the Government.

Those are the four acts we charge against the prisoner, and I will now bring forward evidence to establish them.

JOHN PRITCHARD, sworn, testified as follows:—

Examined by Mr. Scott :

Q. Where do you live? A. I used to live at Frog Lake.

Q. Up to what time? A. Up the 15th April last.

Q. What was your occupation? A. I was an Indian Department interpreter.

Q. Were you there on the 2nd April? A. Yes, I was.

Q. Did you see the prisoner there? A. Yes, I have seen him there.

Q. Any others with him? A. Yes, he had all his band with him.

Q. Was that at the settlement—what is called Frog Lake settlement? A. Yes.

Q. Was the prisoner usually camped there with his band? A. Yes.

Q. How far from the settlement? A. He usually camped about a mile from the settlement.

Q. When did he come into the settlement with his band? A. Well, he was there the whole winter.

Q. I mean, when did he leave his camp about a mile distant and come into the settlement with his band? A. Well, the first time when he came in with his band was on the 1st day of April, about 8 o'clock in the evening. He came in there and had a talk with the Indian agent, and on the 1st day of April there in the evening he said he—Big Bear—said he was not going to raise, he was going to be loyal. He wanted to show the Government, he said, that he did not want to do anything at all.

Q. How did the question of his rising come up on that occasion? A. I could not say.

Q. Did you hear anything said on that day about a rising? A. No; it was themselves came when they heard about that rebellion at Duck Lake.

Q. How do you know they heard about it? A. Well, they told it themselves.

Q. Who did they tell it to, in your presence? A. Yes, in my presence.

Q. Did the prisoner say anything about it? A. No, his son did.

Q. You did not hear the prisoner say anything about it? A. No.

Q. Except the fact that he was not going to rise? A. Yes, except the fact that he was not going to rise.

Q. Did he—the prisoner—hear the son saying that? A. Yes, and the prisoner said he was going to be loyal, he did not want to do anything.

Q. Well, after the talk was over, what did the prisoner and his band do? A. They went home.

Q. Did they come back again? A. On the 2nd April they came back, early in the morning.

Q. What occurred on 2nd April? A. Early in the morning after they got into every house; they took us prisoners.

Q. Whom? A. Every one of us that was up there.

Q. How many? A. There were those that were murdered, and I was one.

Q. How many were murdered? A. There were nine there altogether.

Q. Nine murdered on that day? A. Yes, on that day.

Q. And the rest were taken prisoners? A. Yes.

Q. Those murdered, I suppose, had been taken prisoners before the murder. A. Yes, they were taken prisoners before.

Q. Were there any other persons about besides the prisoner and his band, and

the settlers who were taken prisoners? A. I have not seen any except the prisoner and his band.

Q. Had you an opportunity of seeing whether there was any others there? A. No, I could not have any opportunity. The only opportunity I had, it was to go with the Indian agent over to Mr. Simpson's house, to go and see Big Bear in the house, and ask him to—we did not like to go in the camp but stay in the house.

Q. Was that before or after the murder? A. Before the murders.

Q. As far as you know, there was no others present besides the prisoners taken by this man and his band? A. No, I have not seen any besides that around at that time.

Q. Did you see any of the murders committed? A. No, I have not seen one. I have seen one that fell alongside of me.

Q. What caused him to fall? A. It was the shot. He had a shot from behind and he fell. That is all I seen.

Q. You did not see who committed it? A. No, there were too many around us—too many Indians.

Q. Where were you taken to after you were made prisoner? A. We were taken to the Indian camp—to the prisoner's camp.

Q. Were there any others in the camp besides the prisoners taken by this man and his band? A. At that time? No, I don't know of any.

Q. You don't know of any that were taken? A. No.

Q. Were there any others joined him afterwards? A. Yes, there were some Indians that joined afterwards.

Q. Who were they? A. Indians from Long Lake.

Q. Many of them? A. The whole band that was at Long Lake.

Q. About how many? A. Well, there was not very many in the band—I suppose about fifteen or sixteen families.

Q. How many would that make in the camp altogether? A. There could not be more than 300 altogether.

Q. How long were you kept there a prisoner at Frog Lake? I mean how long were you kept prisoner by the prisoner and his band? A. Two months.

Q. Where were you during that time? Where did you go to after leaving the camp at Frog Lake? A. I went down towards Pitt.

Q. Do you know what occurred there at Pitt? A. Yes.

Q. What was it? A. That was the time that they took Pitt.

A. How did they take Pitt? What did they do in taking it? A. They took everything that was in it and sacked the fort.

Q. Were there any people living there? A. Yes, there were some families.

Q. What was done with the families? A. They were taken prisoners, too.

Q. Were there any others besides those who were taken prisoners and those who got away? A. Yes, the police got away, and it was Big Bear that tried to get them away at that time.

Q. Were there any others there besides those who got away and those who were taken prisoners? A. No, only those that got away and those that were taken prisoners are all the people that were at Pitt. The police that got away were the only ones at Pitt.

Q. Wasn't there a man named Cowan? A. Yes.

Q. What became of him? He was not taken prisoner? A. No.

Q. He did not get away? A. No.

Q. What became of him? A. He was shot.

Q. Did you see the shooting? A. No, I did not see him shot, but we heard the shots. I heard the shots.

Q. Did you see Cowan after he was shot? A. Yes.

Q. You saw that he had been killed? A. Yes, I saw that he had been killed.

Q. What was he? A. A white man.

Q. What occupation did he follow? A. He was a policeman.

Q. You knew him as a policeman? A. Yes.

Q. Where had he been stationed? A. He was stationed at Pitt.

Q. Then you say they took everything there was at Pitt? A. Yes.

Q. What was there? A. I could not say all the articles.

Q. But what buildings were there? A. Hudson Bay buildings.

Q. Was it a store? A. It was a store. Yes.

Q. Were there things in the store? A. Yes, there were things in the store.

Q. And those the Indians took? A. Yes.

Q. Was that before or after they were joined by the Long Lake Indians? A.

The Long Lake Indians were there already and had joined.

Q. They went down to Fort Pitt with the others? A. Yes.

Q. Did you see the prisoner at Fort Pitt? A. Yes, I seen him.

Q. At Fort Pitt? A. Yes.

Q. He was there at the time these outrages took place? A. Yes, he was there.

Q. Where were you about the 21st April? A. A little below Pitt.

Q. Whereabouts? A. I don't know exactly whereabouts I was on the 21st.

Q. Do you remember, on any occasion when you was a prisoner, of the prisoner's being in his tepee?

Mr. Robertson.—The witness has not yet said he was a prisoner of the prisoner's. My learned friend naturally puts it that way, but he has not said that.

Court.—I understand it is put in this way—he was a prisoner of the prisoners of the Indians, of whom this prisoner was one.

Mr. Robertson.—He was a prisoner among the Indians, and the question remains whether he was keeping him or not. Of course, I know my learned friend does not want to misrepresent at all.

Court.—It was quite right to check it.

Mr. Scott.—Q. Do you remember any occasion while you were a prisoner of the prisoner and his band being in the prisoner's tepee.

Mr. Robertson objects.

By Mr. Scott:

Q. Were you a prisoner of the prisoner and his band? Whose prisoner were you? A. I was Big Bear's prisoner.

Q. Do you remember at any time during the time you were that prisoner being in the prisoner's tent or tepee? A. Yes.

Q. Where was this? A. At Frog Lake.

Q. Did anything occur while you were present? A. I don't remember anything.

Q. You know Wandering Spirit? A. Yes.

Q. Were you in his tepee? A. I was.

Q. Do you remember anything that occurred there? A. Yes.

Q. State what it was? A. It was about that letter.

Q. What letter? A. The letter they got André Nault to write to send to Lac la Biche.

Q. How did you happen to be there? A. It was Wandering Spirit came for me.

Q. And he took you to his tent? A. Yes.

Q. When you got to his tent whom did you find there? A. I did not find anybody but he went to Montour afterwards for André Nault.

Q. And they came into the tepee; anybody else? A. Nobody else except Big Bear and Wandering Spirit.

Q. Those were the five in the tent, you and the prisoner and Montour and Nault and the Wandering Spirit? A. Yes.

Q. What occurred there? A. They wrote a letter there.

Q. Did you hear anything said at the time or before the letter was written? A. No, not until the time the letter was written.

Q. Then tell us what was said and who spoke first? After the prisoner came and they were all there? A. It was Montour asked how they would write the letter.

Q. Was that the first thing that was said after you went in? A. Yes, to Big Bear.

By the Court:

Q. Montour asked Big Bear how they would write the letter? A. Yes, the first thing when I got in that I recollect now was that Big Bear said he had—he wanted to send an Indian to White Fish Creek to invite the Bacana Indians. He was about sending an Indian. He enticed the Indians to come in and join him, and then he said to Montour, I want you to write, to do the same, to send a letter to your friends at Lac La Biche, and then he says, for my part, I send word to Bacana if he did not want to come to join me let him buy a swift horse and clear the country. The chief that was at White Fish Creek was to do this.

By Mr. Robertson:

Q. That he had? A. Yes.

By Mr. Scott:

Q. Do I understand you to say that Big Bear had told him or was about to? A. He was about to. He was ready to send the Indian.

Q. And then he asked Montour to write to his friends at Lac la Riche? A. Yes.
Q. Then what did Montour say? A. He commenced to write the letter, and then Montour asked the prisoner here how the letter was going to be, and then these words that I heard were written and interpreted to Alexander Solomon.

Mr. Robertson:—I suppose the writing should be produced.

By Mr. Scott:

Q. Did you see what was put down in the writing? A. I heard the words and saw the man write it.

Q. And after it was written or before—as a matter of fact, you don't know what was written? A. I know a few words,

Q. How do you know them? A. After it was read to Wandering Spirit, he wanted to know the contents of the letter.

Mr. Scott:—I submit your Honor that I am entitled to show the conversation that occurred, that even if the letter was read afterwards, what occurred beforehand in conversation in the tepee during the time the prisoner was there is evidence in this case.

Court:—If reduced into writing, without accounting for the letter?

Mr. Robertson:—I ask that this evidence be interpreted to the prisoner.

Court:—I think it is quite open to you, Mr. Scott, to show the purpose for which they came there, but going further than that, I think you will have to account for the letter, when you show what was really done, and it was put into writing. I think in that case you will have to take the ordinary rule.

Mr. Scott:—Your Honor, I submit I am entitled to show that.

Court:—It would be proving, I think, the contents of a letter. I may be wrong. Perhaps you have got some authority?

By Mr. Scott:

Q. Would you recognize the letter that was written there and read over, as you say, in your presence? A. Well, Sir, I could not recognize the letter.

Q. Do you write? A. Yes.

Q. Would you know whether that was the letter? A. I could not say.

Mr. Scott:—Well, your Honor, I must press that point.

Court:—I must have some authority for it. I am not shutting you out. I don't propose to shut you out from anything but the contents of the letter. I think it is quite open to you to prove what this man said, what this prisoner said. It is quite another thing whether that was written.

Mr. Scott:—As I understood from the witness, I think it is given here. I may be anticipating the witness' evidence to some extent by saying this, that Montour dictated the letter.

Court.—A man says something in another's presence, who is charged and who makes some remarks upon it, that will be evidence. We don't know whether that went into the letter or not, but when you speak of the contents of the letter it is improper. You are speaking of a fact that occurred while the letter was written?

Mr. Scott.—Yes.

Court.—You can't give the contents of a written document without accounting for it, as the contents.

Mr. Robertson.—I understand the line to be drawn here then, your Honor, where my learned friend comes to what was dictated, to what was put into the letter, he must stop.

Court.—The facts, the conversation which took place are facts, from which reasonable practices are to be deduced, if they can be deduced, and it is quite another thing whether they were put into writing or not. We want to get at the animus of the person charged.

Mr. Robertson.—I quite agree with my learned friend that any conversation which took place not actually put into the letter would be admissible.

Court.—It would be quite open to him to show that they met there, and the purpose avowed by one of the parties was that a letter was written, but there he must stop with regard to the letter, and say that so and so said so and so.

Mr. Robertson.—So long as it is not giving what was put into the letter.

By Mr. Scott :

Q. I think I can get all I want out of this witness' friends at Lac la Biche?

A. Yes.

Q. What was said after Big Bear asked Montour to do this? A. He said they would write.

Q. Who said? A. Montour.

Q. Whom did he mean by "they," he said "we will write"? A. Yes.

Q. I suppose that is what he said? A. Yes.

Q. Whom did he mean by "we," do you know? A. He meant himself at last.

Q. Montour said that he would write? A. Yes, Wandering Spirit urging them to write the letter.

Q. Then, what next? A. I know the contents of the letter.

Q. How do you know them? A. I heard them pronounced first before it was written.

Q. By whom? A. I heard them pronounced by Montour.

Q. For what purpose? A. For the purpose of putting it in the letter.

Q. Who did he pronounce it to? A. He pronounced it to the prisoner here, if he would write that.

Q. Did he ask the prisoner? A. Yes, he asked the prisoner first.

Q. What did he ask him? A. He asked him, he says shall I write and tell him.

Q. What did he ask him? A. To tell Alexander Solomon so-and-so; that was the words that was said there.

By the Court :

Q. Shall I tell Alexander what? A. To preserve from the Indians, to rob him and deliver up his guns and the ammunition he had, as the Indians would rob him anyhow.

Q. Montour asked Big Bear this? A. Yes.

Q. And what did Big Bear say? He told him, yes.

Q. Then did he ask him any other questions? A. He told him, shall we tell the news about this place, the news about this massacre that was done; that is all I remember.

Q. That is what Montour asked him at the time? A. At the time I was in Wandering Spirit's tent.

Q. He asked Big Bear if he should tell Solomon what had been done? A. Yes.

Q. Was that the way he put the question? A. Yes, that was the way he put the question.

Q. Are you sure that was the way? A. —.

Q. Just put it in his exact words, Montour's exact words? A. He says, shall I tell Solomon the news of what happened here? That was the way he asked him.

Q. And what did Big Bear say? A. He said, yes.

Q. Was that all Big Bear said? A. Yes, that was all he said.

Q. That is not the statement that you gave to me, Mr. Pritchard—I am not going to tell what you said. I have a perfect right to make that remark. I want to refresh your memory as to it.

Mr. Robertson.—I don't think you have the right to make that remark. If a different statement was made, you have a right to ask him and prove it was made, according to the rules of evidence. You have no right to make a statement to the jury that he told you something different.

By Mr. Scott:

Q. Are those the only questions you heard Montour asking Big Bear? A. Yes, that is the only questions I remember now.

Q. Did Montour at any time put a sentence to Big Bear as to what he was going to put in the letter by way of a question? A. That is all the sentences that I am perfectly sure that was pronounced now.

Q. Were you at Frenchman's Butte during the time you were prisoner? A. Yes.

Q. About what time was that? A. I don't exactly remember the date.

Q. Do you remember anything that occurred there? A. Yes.

Q. What? A. They had a skirmish there.

Q. Who had a skirmish? A. It was between the Indians and the troops.

Q. What troops? A. I could not say what troops, because I was not with the troops.

Q. Did you hear the prisoner or those who were with him on that occasion saying as to what troops they were? A. No.

Q. You never heard any conversation about it? A. No, I did not hear any conversation on it, what troops they were.

Q. You have heard them talking about it, you say? A. No.

Q. Didn't you hear any conversation about the fight afterwards? A. I heard some conversation about the fight, and heard the gun-shots.

Q. Well, how did you know it was the troops? Did you hear the Indians say so? A. Well, I heard it in Cree—"the soldiers."

Q. Did you hear what soldiers they were? A. No, I did not hear whether they were nothing but French and Indians. I did not hear what troops was there.

Q. Did you see Big Bear on that occasion? A. No, I did not see him that day.

Court.—Mr. Robertson, before you ask him any questions, I propose to ask this interpreter to interpret what I have taken down. (This evidence is now read over to the witness by the court, and the interpreter interprets it to the prisoner.)

By Mr. Robertson:

Q. Mr. Pritchard, you were in Mr. James K. Simpson's house at Frog Lake on the morning of the massacre? A. Yes.

Q. What time in the morning? A. It was about seven or eight o'clock.

Q. That is, the morning of the 2nd April? A. Yes.

Q. Whom did you see? A. I saw Big Bear there.

Q. Whom else? A. Mrs. Simpson.

Q. Not Mr. Simpson? A. No.

Q. What was Big Bear doing? A. He was doing nothing; he was sitting in a chair in the house.

Q. And Mrs. Simpson was there? A. Yes.

Q. Was anyone else with you? A. I was with the Indian agent.

Q. What is his name? A. Thomas Quinn.

Q. At seven o'clock in the morning when you saw Big Bear, was that in Mr. Simpson's house? A. Yes.

Q. Where did you go from that? A. We got out and wanted to come home, and we met with a band of Indians, myself and Quinn.

Q. And what happened when you met the band of Indians? A. When I met the band of Indians, the band of Indians surrounded me, and they wanted to take me right away to the camp.

Q. Did they surround Quinn also? A. Well, Quinn was behind me.

Q. And you did not see what they did with him? A. No.

Q. That was the time when you were taken prisoner? A. Yes.

Q. And Big Bear, before that, you had left in Mr. Simpson's house? A. Yes.

Q. Then he was not present when you were taken prisoner, Big Bear? A. He was not present. I was taken early in the morning, first of all.

Q. You had just left him in Mr. Simpson's house and you came away from there and a band of Indians took you there, Big Bear was not there when you were taken prisoner? A. No, he was not there.

Q. He was there in Mrs. Simpson's house some little distance away? A. Yes.

Q. Who were the leading spirits in the band that took you prisoner? A. Big Bear's son.

Q. What is his name? A. Imesis.

Q. Is Big Bear's son a good son to his father? A. No, I don't think so, because when the father said anything the son bucks against it.

Q. The direct contrary? A. Yes.

Q. Did he do that through the whole of this trouble? A. Yes.

Q. This Imesis was one of the leaders of this band of Indians? A. Yes.

Q. And it was he who took you prisoner? A. Yes.

Q. Now, why did you say you were Big Bear's prisoner? A. He being the chief, and I was in his camp.

Q. And he is the chief recognized by the Government? A. Yes.

Q. Can you tell me who else were the leaders of the band of Indians in this trouble? A. Wandering Spirit.

Q. Any other? A. Little Poplar.

Q. These people then were the leaders of the band of Indians throughout the whole of this business? A. Yes, they were the leaders throughout all, yes.

Q. Was Big Bear one of the leaders of the band of Indians, did he lead them, did he incite them to wrong? A. No, I never saw Big Bear incite any Indian.

Q. You never heard him inciting any wrong? A. No.

Q. Did you hear him say anything to the contrary at any time? A. I can't recollect. It was only at that time that he wanted to take Fort Pitt, and told them not to try and kill anybody that time, he wanted to save the families that were in the fort.

Q. Who wanted to take Pitt? A. Wandering Spirit and Imesis, they wanted to take the headmen that was leading the Indians.

Q. Imesis and Wandering Spirit wanted to go and take Fort Pitt? A. Yes.

Q. Where was this? A. At Frog Lake.

Q. Before they went? A. Yes.

Q. What did Big Bear say about that to them or what did he try to do? A. Big Bear tried to save the families that were in the fort. He said if he could get the police to leave the fort it would be good, that is what he said.

Q. He suggested that? A. Yes.

Q. That he wanted to save them? A. Yes.

Q. Now, did he try to prevent them from going to Fort Pitt at all, did he try to keep them quiet? A. Well, that is all he said and I did not say if he wanted to try and prevent them, but I heard those words.

Q. That he wanted to save the people in the fort, to arrange so that the police could get away? A. Yes.

Q. Did you hear the whole of what took place at that interview or was it just part of it on that occasion? A. Just part of it.

Q. You were not all, you were not there all the time? A. No.

Q. Now, do you know who went first to Fort Pitt from Frog Lake when they went down to take it? A. No.

Q. Did Big Bear go among the first, do you know that, or did he not? A. No; it was the Indians that went off first and Big Bear started behind.

Q. He followed them? A. Yes.

Q. Did you go with them? A. Yes.

Q. Went with them to Fort Pitt? A. Yes.

Q. How did it happen you went? A. Wandering Spirit wanted me to go as interpreter.

Q. Wandering Spirit wanted you? A. Yes.

Q. When you say they wanted you, you mean Wandering Spirit, and took you to act as interpreter? A. Yes, to act as interpreter.

Q. Then, who was it commanded the party when they went? A. It was these two men that I mention, it was these two men.

Q. Big Bear was not commanding it at all? A. No, he had no influence in this band.

Q. Well, you went there yourself before Big Bear did—Big Bear must have come after you? A. No.

Q. Well, how was that? A. Well this, after the Indians started Wandering Spirit came back and made me go.

Q. Well, when you got there you saw the plundering of the fort? A. Yes.

Q. Did Big Bear take any part in the plundering of the fort? A. I did not see him.

Q. Do you know whether he did or not? A. I don't know whether he did or not because I did not see him, and I have not seen if he had anything at the fort.

Q. You never saw him with any of the goods? A. No.

Q. Did you see him about that time after the pillaging? A. Very seldom I would see him.

Q. Well, how often did you see him after the pillaging of Fort Pitt? Immediately after, that day and the next day? A. Well, I don't remember seeing him often, it is very seldom I would see Big Bear go around and leave his tent.

Q. He very seldom left his tent at all? A. Yes.

Q. Didn't you see him at all? A. I did see him.

Q. Twice? A. More than twice inside of two months. I can't say how many times. I don't remember how many times I saw him.

Q. During the two months that followed the pillaging of Fort Pitt you saw Big Bear pretty often? A. Yes.

Q. Although he generally stayed in his tent? A. Yes.

Q. Were you in his tent frequently during that time? A. No, I never went in his tent.

Q. You travelled over a great deal of ground during those two months? A. Yes.

Q. How did Big Bear travel? A. On foot.

Q. Were there any horses in the band? A. Yes, there were horses.

Q. How many? A. I don't know the number.

Q. Were there 100? A. More than 100.

Q. And Big Bear never had a horse even? A. No. I never saw Big Bear on horseback nor on a rig. He used to travel on foot.

Q. He did not even have wheels to carry him or ponies? A. No.

Q. And it was a pretty rough country? A. It was.

Q. Through a great deal of sloughs, and snow and bad weather, wasn't it? A. Yes.

Q. That was the treatment he got from his own band? A. Yes.

Q. This great chief who is to be held responsible for the doings of these Indians?
A. Yes.

Q. Did you ever see him with any of the goods that were taken from Fort Pitt during that time? A. I know he had clothing, he had blankets, but I could not say whether they came from there; but I saw some goods with him, blankets and clothing he had on his back, and his family.

Q. But you don't know where they came from? A. No.

Q. Had he more than he usually had in the way of clothing? A. Well that I don't know, because I am not much acquainted with Big Bear's tent, and I never seen what he had.

Q. Well you never observed any particular goods that indicated to you that he had any of the goods that were taken from Fort Pitt? A. No.

Q. What you saw were just ordinary things that he always wore? A. Yes.

Q. Tell me did you see Big Bear immediately after the shooting took place at Frog Lake, shooting of Quinn? A. I did not.

Q. Did you hear him say anything? A. No.

Q. You told us they came in first to Frog Lake on the 1st April in the evening?
A. Yes.

Q. And you said Big Bear came in and had an interview with the agent and the other Indians? A. Yes.

Q. And that Imesis told the agent about the trouble at Duck Lake? A. Yes.

Q. And Big Bear said that he was going to be loyal and show the Government something—my learned friend interrupted. I would like you to finish that? A. He was going to be loyal, he was not going to rise—him and his band were not going to rise.

Q. And he was going to show the Government what? A. They say Big Bear is going to rise to war, and I am going to let them know and see that I am not going to rise.

Q. He was going to vindicate his character in fact? A. Yes.

Q. And the Indians did go away peaceably that night? A. They went away peaceably that night.

Q. Now how do you know that the white people, Quinn and the rest that were murdered, were taken prisoners before they were murdered? A. Because I seen them taken and the whole band taken into a house.

Q. You said that you came away from Mr. Simpson's house and you and Quinn were together, and it was then you were taken prisoner; were you a prisoner when you went to Simpson's house? A. We were taken prisoners, and then they wanted to drive us to the camp, and then the Indian agent told me, we will go and ask Big Bear that we may be able to stay in the house, and stay together; and we went over and found Big Bear there, and we wanted to stop in the house.

Q. Then you had been taken prisoners in a sense, but were allowed to go about?
A. Yes, with the band of Indians around us.

Q. And they seized you a second time after, when you were coming away? A. Yes.

Q. You have already told us, I think, that at Fort Pitt Big Bear directed his efforts to save the people in the fort, to get them away safely? A. Yes.

Q. Could he have prevented the pillaging of the fort at all? A. No, he could not have prevented it.

Q. So that the best that he could do was to try and help the whites to get away and save their lives? A. Yes.

Q. Do you recollect the arrival of a letter, I think addressed to yourself, from Norbert Delorme? A. Yes.

Q. He was in Poundmaker's camp at that time? A. Yes.

Q. And a letter came to you from him? A. Yes.

Q. Do you know what became of that letter? A. No, I don't know what became of it; Wandering Spirit asked it from me and I gave him the letter.

Q. I would like to ask the general purport of the letter. I have no means of getting the letter, and I don't wish to give the particular contents of it—I merely wish to know the object of the letter—the Crown has the means of obtaining it.

Mr. Scott.—I think my learned friend is not fairly stating the case when he says that every bit of information possible for us to obtain has not been furnished. We have endeavored to obtain all the information possible; we have sent for any witnesses for the defence that he has required, and I don't see that we are in a better position to get information than he is.

Mr. Robertson.—Of course Big Bear is an Indian, and your Honor knows what great difficulty that puts in my way. I knew nothing whatever about this matter until Mr. Pritchard told me about it the day before yesterday, and I had not the first idea that the letter was in existence, or that anything of the kind was there, and I do not ask to go into the full contents of the letter. I merely ask your Honor to say that the letter being shown to have been taken by Wandering Spirit, one of this band of Indians who was out of my reach, it is practically lost.

Court.—I could not say that.

Mr. Robertson.—It is lost in this way, that it is gone were we can't get it.

Court.—I don't know that. I think I must apply the same principles to you. I must stick to the same rule I held before. If the parties present say we are going to put so and so into a piece of paper, and so and so may be given, but as to the contents of that paper they cannot be given.

By Mr. Robertson :

Q. The letter came at all events, and Wandering Spirit got it? A. Yes.

Q. In consequence of that letter was anything done in the way of a council? A. No, they invited some Indians and some prisoners that were there to get the letter read, so that everybody would hear the contents of the letter.

Q. Well, did anyone propose any course of action? Did anyone propose acting in consequence of that letter? Did anyone propose that the band should go down to join Poundmaker? A. I did not hear of anybody proposing to go down and join Poundmaker.

Q. You did not hear anyone propose that? A. No.

Q. Did any of the Indians express the wish to go to join Poundmaker? A. Well, there was some that I heard wish to go to Poundmaker.

Q. Who? A. There was one of the prisoner's counsellors.

Q. What is his name? A. Fair Sky the Bird.

Q. He wanted to go? A. Yes.

Q. Did Big Bear say anything as to that? A. No, I did not hear Big Bear say anything.

Q. Not one way or the other? A. Not one way or the other.

Q. Did Big Bear want to go? A. I could not say if he wanted to go or not.

Q. You did not hear him express himself one way or another? A. No.

Q. Do you recollect the morning of the 28th May, the day of the fight at Frenchman's Butte? A. Yes.

Q. Where were you on that morning and the evening before? A. Just where the fight took place the evening before that.

Q. Did you hear Big Bear give any advice to the Indians? A. No.

Q. The evening of the 27th did you hear Big Bear giving any advice to the Indians as to whether they should stay there, or as to what they should do? A. No.

Court.—I don't propose to translate this.

Mr. Robertson.—No, I don't think it is necessary to translate it.

By Mr. Scott :—

Q. You had been taken prisoner before you went over to Mrs. Simpson's house? A. Yes.

Q. Where were you taken? A. In my house.

Q. Was the prisoner there at or about the time you were taken? A. No.

Q. Had you seen him that morning before? A. I seen him that morning.

Q. Who was he with or where was he? A. I seen him in Delaney's house that morning.

Q. Before you were taken prisoner? A. We were taken prisoner, we were taken in bed every one, and so we were taken altogether into Delaney's house, and then the prisoner standing at the bar now, I seen him there.

Q. Where? A. In Delaney's house with a big crowd of Indians.

Q. About the time you were taken prisoner? A. Yes.

Q. The time when you were taken to Delaney's house? A. Yes.

Q. Then you say you went over with Quinn to see Big Bear at Simpson's house for the purpose of obtaining permission from him to remain in the house? A. Yes.

Q. Did you speak to him when you got into Simpson's house? A. Yes, I was interpreter for the agent and I spoke to him.

Q. You spoke for the agent? A. Yes.

A. What did you say to Big Bear? A. I merely asked him about the orders of the Indian agent that was with me, we would not like to go to the camp but would like to stop in the house, and he said, the prisoner here told us, we could stay in the Indian agent's house.

Q. He knew at that time that you were prisoners? A. Yes, he knew at that time.

Q. He had seen you around as prisoners before that? A. Yes.

Q. When did you first discover that Big Bear had no influence in his own band? Did you know that before the outbreak? A. No.

Q. Then you always recognized him as being the head and front of his band up to the time of the outbreak? A. Yes, up to the time of the outbreak, and till after the time of the outbreak.

Q. There was a feeling among some of the Indians that the prisoners should be killed, was there not? A. Yes.

Q. You know that that existed? A. Yes.

Q. And that some of the band were very anxious to have them killed? A. Yes.

Q. Imesis, Wandering Spirit and Little Poplar, I suppose they were anxious to see you all killed? A. Yes.

Q. And urged it? A. Yes.

Q. Big Bear, you stated, was opposed to the killing of the prisoners? A. Yes.

Q. Have you any means of knowing by whose doing it was that the prisoners' lives were saved? A. I could not say exactly that this man and this Indian saved the prisoners, but in a big crowd of Indians there is always some good white and half-breed and Indian. There is some of the Indians that protected us entirely I might say. I don't know the names of all the Indians, but it was the Wood Crees—Long Lake Indians.

Q. Where did the Wood Crees join the camp? A. At Frog Lake.

Q. How long was that after the massacre on the 2nd of April that they joined? A. They joined about the 6th or 7th April.

Q. Four or five days afterwards? A. Yes.

Q. You say that Big Bear was recognized by the Government as the chief of the band? A. Yes.

Q. And I understood you to say he was recognized by the band as well, as their chief up till the 2nd April? A. Yes. I recognized him as the head chief of the band.

Q. Then, who was the recognized head of the band by the Indians themselves up to the time? A. That I don't know. The only thing that I could know, when the Indians would come to talk to the Indian agent, he was the man that talked first.

Q. He was the spokesman? A. Yes, and then afterwards it was Wandering Spirit.

Q. Do you know what the custom is as to who the spokesman for a band is amongst Indians? Who speaks first amongst an Indian band? A. The chief.

Q. Is it the head chief? A. Yes.

Q. It is the head chief that speaks first? A. Yes. The man that speaks first amongst a band of Indians—head man.

By the Court :

Q. And then next comes a councillor, doesn't it? A. Yes.

By Mr. Scott :

Q. You say that you heard Big Bear at Fort Pitt endeavoring to persuade the Indians to let the police go? A. Yes.

Q. That was at Fort Pitt? A. Yes.

Q. After his arrival there? A. Yes.

Q. And before the taking of the fort? A. Before the taking of the fort.

Q. How did you happen to hear this? Was it a council? A. It was not a council, but it was a whole body of men standing together that were just going to rush into the fort, and then he called out and told them to try and save the families that were there, and the police that were there, let them go.

Q. To let the police and families go? A. Yes.

Q. That was all he said? A. That was all he said.

By Mr. Robertson :

Q. You say it was the Wood Crees that saved you? A. Yes.

Q. Was Big Bear in sympathy with them in saving you? A. Well, I could not say that, because I don't know. I never seen Big Bear around.

Q. When you say that it was the Wood Crees then you only mean that that was your general impression about it, and you seem to have more friends among the Wood Crees than among the Plain Crees? A. Yes.

Q. But Big Bear might have been siding with the Wood Crees in protecting you? A. Yes.

Q. Could he have protected you against his own men if the Wood Crees had not been there? A. No.

Q. He could not? A. He could not.

Q. Then you said you recognized Big Bear as the chief of that band until after the rising? A. Yes.

Q. How long after the rising? A. It was at that time that I recognized that he was not chief, that he was no longer chief, at the time they took Fort Pitt.

Q. Then it was brought home to you clearly that he was no longer chief? A. I saw who was the leaders of it. That is what makes me say now that he was not chief then.

Q. That was the first time it was brought plainly to you? A. Yes.

Q. And before that time you had just remained under the impression that had been created by many years' custom before, that Big Bear was chief? A. Yes.

Q. And when you told the jury that it was Big Bear that used to speak first to the Indian agent and the Wandering Spirit afterwards, that referred to the time before the rising? A. Yes.

Q. Not after? A. Yes.

JAMES KAY SIMPSON, sworn:—

Examined by Mr. Scott :

Peter Hourie, interpreter, interpreting as the evidence is given.

Q. Where were you living on the 2nd April? A. I started from Pitt to go to Frog Lake.

Q. Where were you living at that time? A. At Frog Lake before.

Q. When did you reach Frog Lake? A. In the afternoon.

Q. What did you find there? A. All the houses all abandoned, all the doors broken and windows and everything, and I found the camp about a mile away from the houses.

Q. All the houses do you say were plundered? A. Yes, broken and plundered, all plundered.

Q. Any people about the settlement? A. Not a single soul.

Q. What did you do when you found this state of affairs? A. I went into my own place and examined the place, and found that everything was upside down there.

Q. What is your occupation at Frog Lake? A. I was clerk in charge of the post there, Frog Lake post, of the Hudson Bay Company.

Q. What does the post consist of? A. Goods.

Q. And store, I suppose? A. Yes.

Q. With goods? A. With goods, yes, and provisions.

Q. What had become of the goods when you got there? A. The Indians had the whole.

Q. They were gone? A. They were all gone.

Q. And you found the contents of your own house——? A. All gone.

Q. What did you do then? A. I looked around about the floor to see if there was any bloodshed or blood, or anything, and I went out then.

Q. Did you see any signs of bloodshed anywhere? A. No, not at that place. I went on the road all the way. I did not go out.

Q. Where did you go to? A. I went right to my place, and I saw an Indian there afterwards. After I had gone on to my place and looked around; as I came out, there was an Indian came up, and I asked him, what is up? What is all this, says I across the creek? He says, you may see what is up.

Q. What did you do after speaking to the Indians? A. I got into my buckboard and drove right across where the camp was.

Q. Whom did you see there? A. All the Indians sitting in a circle.

Q. The prisoner? A. The prisoner was there, yes.

Q. Do you speak Cree? A. Yes.

Q. What did you do after you got there; did you speak to the prisoner? A. Yes.

Q. Who did you speak to first? A. The prisoner.

Q. What was said? A. I asked him, hallo, I said, you are here; and he said yes, when did you come back from hunting? He was away hunting when I went away from there, and he said, yesterday morning he had come in, that they had sent for him. I said, did you make a good hunt? He said, no, and that is all that I asked him just then, and then he said to me afterwards, if you wish to come into my tent and remain in my tent, you come in and remain in my tent.

Q. Did you go in? A. No, I did not go just there. I went down to my own tent first and then about an hour or so after, I went back to Big Bear's tent, and I said to him, I am sorry to see what you have done here. Well, he says, it is not my doings. I said, now this affair will all be in your name, not your young men. It will be all on you, carried on your back. He says, it is not my doings, and the young men won't listen, and I am very sorry for what has been done.

Q. What became of you after that? A. I was in the camp.

Q. What position had you in the camp? A. I was a prisoner there.

Q. You were a prisoner in the camp? A. Yes.

Q. And followed the camp after that? A. Yes.

Q. Up to the time of your release? A. Yes.

Q. When was that? A. That was on the other side of the Beaver River.

Q. When? A. About the latter end of June, I think.

Q. You were there three months? A. Three months.

Q. Were you at Fort Pitt about the middle of April? A. No.

Q. Were you taken down there? A. No.

Q. Where did you remain? A. Frog Lake.

Q. Did a portion of the band remain there? A. Not many.

Q. Were there any other of the prisoners remained there besides you? A. Cameron.

Q. Cameron and you then were detained at Frog Lake? A. Yes.

Q. And the others went down to Pitt did they? A. To Pitt.

Q. What proportion of the band went to Pitt about that time? A. Nearly the whole of them.

Q. Do you remember about the 28th May being in the neighborhood of Frenchman's Butte, you know where that is? A. Yes.

Q. What occurred there? A. The soldiers came up there and had a fight.

Q. How do you know, did you see it? A. The soldiers?

Q. Yes? A. No, I did not see them.

Q. How do you know they were soldiers? A. Reported to be.

Q. By whom? A. The Indians.

Q. Was the prisoner there? A. The prisoner was around there, yes..

Q. Where? A. Where we were camped.

Q. Was it reported what soldiers they were? A. They said, soldiers, that is all, did not say what they were exactly.

Q. Did you know whose soldiers they were? A. We knew it was the Government soldiers.

Q. How did you hear that? A. Well, there was a report that the Government soldiers were coming down from Edmonton before.

Q. Where was that reported? A. That was reported—we got that report about Frog Lake.

Q. How did you hear it? A. It was among the Indians.

Q. Was it among the Indians the prisoner was with? A. Yes.

Q. Well, were those the soldiers that you heard were at Frenchman's Butte? A. Yes.

Q. There was a fight there you say? A. Yes.

Q. How do you know? A. I heard the shots. I did not see them myself.

Q. Did you hear the Indians saying anything about the fights, as to what they had done, what had been done?

Mr. Robertson.—In presence of Big Bear?

Court.—Not necessarily.

By Mr. Scott :

Q. In the presence of some of those with whom he was associated. Did you hear any of the Indians that were with the prisoner saying what had been done at the fight at Frenchman's Butte? A. I heard an Indian say that there was fighting with the soldiers, and they had killed nineteen or twenty, that was the report.

By Mr. Robertson :

Q. How long have you known Big Bear? A. Nearly forty years.

Q. The prisoner? A. Yes.

Q. What has been his character during all that time? A. Always been a good Indian to the white man.

Q. A good friend of the white man? A. Yes.

Q. And always respected by the white people as being a good friend? A. Yes.

Q. Did you ever hear of his getting into any trouble of any kind with the white man? A. Never any trouble of his own troubles until this.

Q. You were not present on the morning of the massacre at Frog Lake? A. No.

Q. You were away at Fort Pitt on your way home? A. Yes.

Q. And it was not till after the massacre that you arrived there? A. Yes.

Q. You have told us that when you drove across the camp you found Big Bear there in the circle of the Indians that were sitting there. You spoke to him, and you said something to the effect that you were sorry for what had been done, and that he would lose his good name now or this would rest upon his shoulders? A. Yes, I said so.

Q. And he said it was not his doing? A. Yes.

Q. That the young men would not listen to him? A. Yes.

Q. And he was very sorry for what had been done? A. Yes.

Q. Did he say anything else about his good name and the young men? A. He said they have been always trying to take my name from me. I have always tried to stop the young men, and they have done it this time and taken my name away from me.

Q. He complained that the young men had been trying to take his name away from him, and that they had succeeded at last? A. Yes.

Q. Did he seem really sorry? A. Yes.

Q. Did you believe that he was sorry? A. Yes.

Q. Do you believe it now that he was sorry? A. Yes.

Q. As matter of fact, can you say whether Big Bear was recognized as chief or in command, and could control the Indians in his band at that time? A. Not just at that moment. He was at one time recognized as chief.

Q. At one time, when? A. In his younger days when I knew him first, but it became so at last that his young men would not listen to him.

Q. How old is he, do you know? A. He ought to be upwards of sixty.

Q. And do you know, as matter of fact, that the younger men in the tribe looked upon him as a sort of old woman? Yes, in his older days.

Q. When he got older? A. Yes.

Q. And of later times? A. Yes.

Q. Had he really any influence among his band? A. Not these last years.

Q. Any influence sufficient to control them against their wishes? If they were set upon anything could he stop them? A. Oh, no.

Q. Who were the Indians that really led that band and influenced them? A. One of his own sons.

Q. What was his name? A. Imesis, and Wandering Spirit, and Chuway.

Q. Little Poplar? A. He was not there when the massacre was there. He only came in when they went down to Pitt.

Q. And those were the men that were controlling the band then? A. After. Yes.

Q. I mean at the time of the massacre the men that were controlling it were Imesis, Wandering Spirit and this other Indian? A. Yes, Lucky Man, they call him.

Q. They were the ring-leaders? A. Yes.

Q. Were they members of the council? A. Lucky Man was a chief, another chief.

Q. Wandering Spirit, what was he? A. First councillor.

Q. They were all influential men, even in the ordinary councils? A. Yes.

Q. And they had taken control, practically, of the band? A. Yes.

Q. How did Imesis treat his father habitually? A. He did not treat him very well.

Q. He did not treat him well? A. No.

Q. Didn't he treat him very badly? A. No.

Q. Is it a fact, as Mr. Pritchard has told us already, that when Big Bear tried to do anything his son always bucked against him—as he expressed it? A. He went contrary always.

Q. And generally succeeded in carrying the Indians with him? A. Yes.

Q. During all that time that you were with the Indians, while you were a prisoner, how did Big Bear travel? A. On foot.

Q. Were there any horses in the band? A. Yes.

Q. And he could not get a horse? A. I don't know that he could not, but he always travelled on foot.

Q. What was the ground you travelled over? A. Bad ground—muskegs and water and woods.

Q. Did I understand you to say that you were present at Fort Pitt when it was pillaged? A. No.

Q. You were at Frenchman's Butte? Did you see Big Bear at Frenchman's Butte? A. Yes I saw him there.

Q. Where was he? A. In the camp when I saw him.

Q. When the fighting was going on? A. No, I was not there when the fighting was going on.

Q. Do you know where Big Bear was when the fighting was going on? A. I could not say. I did not see him.

Q. Do you recollect where he went that morning, or what became of him that morning? A. I saw him in the evening after the fight, but I did not see him in the morning.

Q. Where was he then, when you saw him in the evening? A. Away travelling.

Q. How far away that night? A. Fifteen or sixteen miles.

Q. Away from where the fighting had been? A. Yes, when I saw him.

Q. That was in the evening? A. Yes.

Q. About what time, late or early? A. Just about two o'clock in the afternoon.

Q. About two o'clock in the afternoon he had got fifteen or sixteen miles away from where the fight was going on? A. Yes, from Frenchman's Butte.

Q. And at what time had the fighting been going on? A. About six in the morning. Between six and seven in the morning.

Q. Now tell me, had all the Indians run away like that? A. No.

Q. Had many of them ran away? A. Oh, yes, all the families had ran away.

Q. But where were the fighting men? A. The fighting men were fighting there.

Q. All out at the front; they did not run away? A. They did not run away.

Q. Do you recollect the arrival of a letter from Norbert Delorme? A. Yes.

Q. Who was then in Poundmaker's camp? A. Yes.

Q. Addressed to John Pritchard, the last witness? A. Yes.

Q. And you and Mr. Maclean, after the arrival of that letter, went out among the Indians, and particularly the Wood Crees, to persuade them not to go and join Poundmaker; that is a fact, is it not? A. Yes.

Q. Mr. Maclean went about, and you acted as his interpreter and assisted him. A. Yes.

Q. Did Big Bear assist you or resist you? Did he assist you in that attempt to prevent them from going around? A. I spoke to Big Bear, and he said he did not wish to go.

Q. Well, did he say that in the presence of any of the Indians? A. Well, there was no Indians around about there only himself.

Q. Just at that time? A. Yes.

Q. Who was it protected the white prisoners? A. That I could not say.

Q. Is Mr. Pritchard correct in saying it was the Wood Crees, and not the Plain Crees; that the Wood Crees really saved the whites from the Plain Crees? A. Well, just when I got into the camp there was more of the Plain Crees than the Wood Crees.

Q. Just at that time? A. Yes; of course, if they wished to kill us at that time, they could have kill us at once.

Q. They had just killed nine or ten already? A. Yes, but they could have killed the rest of us if they wished.

Q. But afterwards? A. It was the Wood Crees that saved us.

Q. Was Big Bear in sympathy with them that saved you, or was he in sympathy with Plain Crees who wanted to kill you? A. If he had said to kill us, to his own Indians, they would have killed us sure.

Q. Do you think they could as against the Wood Crees? A. Yes, I think so.

Q. If he had said to do it, do you think they would have done it? A. Yes.

Q. Could he alone have prevented them from doing it? A. Oh, no.

Q. You are satisfied of that? A. Yes.

By Mr. Scott:

Q. You say that the prisoner had at one time considerable influence over his band? A. Yes.

Q. But that it became after a time that the young men would not listen to him? A. Yes.

Q. When did you first observe symptoms of that feeling in the band? A. A few days before the treaty.

Q. Some years ago? A. Yes.

Q. You say that since that the young men would not listen to him? A. No (affirmatively).

Q. How did that come to your notice? What circumstances brought that to your notice? A. Because I was into the camp often trading with them, summer and winter, the same as if I was living with them altogether, and I found out that if he had anything to say, the others would not hear it.

Q. Then, how does it come that in the face of that, that if he had counselled the Indians to kill the prisoners, they would have done so? He must have had some influence which turned the balance one side or the other, and would have made the crowd turn with it? A. If you get into a camp of Indians, and they speak to you, and you said, do this bad, they will do it, and say, do this good, and they would not do it perhaps.

Q. That is what you think? A. Yes.

Q. That the member of a band or chief may have an influence for bad, but that influence might not extend to influence them to do good acts? A. Yes.

Q. You say that Big Bear always travelled on foot? A. Yes.

Q. Were there any of the others travelling on foot? A. Yes.

Q. Who, for instance? A. The Indians.

Q. Quite a number of them? A. Quite a number of them.

Q. Any of the head men? A. Yes.

Q. Besides Big Bear? A. Yes.

Q. Who? A. Wandering Spirit.

Q. He was travelling on foot? A. Yes.

Q. Do you know for what reason these men were travelling on foot? A. No.

Q. Had the prisoner any horses of his own? A. He had horses, but everyone had taken his horses and made use of them.

Q. Others were making use of them? A. Yes.

Q. You don't know whether it was with his permission or against his will? A. No, I don't.

Q. You say that after the arrival of that letter from Nobert Delorme you and Mr. Maclean went around the camp endeavoring to persuade the Indians not to go to Poundmaker? A. Yes.

Q. Or Mr. Maclean went around and you interpreted for him, is that the way of it? A. Yes.

Q. What arguments were used to prevent the Indians from going to Poundmaker, what was the argument which in your mind prevailed upon them not to go? A. They wanted Big Bear and all the Indians to go down to Battleford to Poundmaker's and once they got all there they were going to take Battleford.

Q. And you tried to persuade them from going? A. Yes.

Q. I want to know what argument you used to persuade them from going? to endeavor to persuade them?

Mr. Robertson.—I should think this is hardly evidence against the prisoner, what effort was used to prevent him from going.

Court.—He may ask him what he said. I suppose it comes to the same thing. You opened it in your cross-examination.

Mr. Robertson.—My learned friend asks in the widest way what arguments he used generally.

Court.—The proper way is to ask what he said to Big Bear, and he can go to the Indians, too. I wish to point out a distinction there, it is quite true the evidence is admissible in respect of overt acts committed by any one of a body of men in arms, but it is a different thing when you come to this point where the witness has shown that Big Bear was not acting in concert with them, but that he was wishing not to go. Then, for my learned friend to say what argument he used with other Indians to try and make them go is not admissible. Much the same argument came up in the Frost case, the question was raised by the Attorney-General as to what passed in a place where the prisoner was not at all, but it was to get out the facts.

which led to a conspiracy as charged and overt acts afterwards, and the court there held the facts may be taken, whether the conspiracy proved first identical facts may be taken, and if those things fit in together they are given.

Mr. Robertson.—That is just the distinction I was drawing.

Court.—You brought it out first as endeavoring to get the Wood Indians not to go to a certain place, and it is quite open to Mr. Scott to ask what passed between these.

Mr. Robertson.—The point of my examination on that was merely to show that Big Bear was opposed to going. I have no objection to the asking what passed between him and Big Bear, but it cannot affect Big Bear, what he said to other Indians.

Court.—Yes, if it afterwards went to Big Bear or any action taken on it to which Big Bear was a party afterwards.

Mr. Scott.—The question was asked in the first place by Mr. Robertson.

Court.—The question may be asked as to what the witness said to these.

Mr. Scott.—I should not have asked what argument. I put it that way in order to shorten the case as much as possible.

By Mr. Scott:

Q. I understand you to say that Mr. Maclean endeavored to induce the Indians to refrain from joining Poundmaker? What was said by you to induce them not to go? A. I told them it was better not to go.

Q. Anything further? A. And I told them the Indians were starving, we hear Poundmaker and them are starving, they have nothing to eat and we had something to eat, and I told him that was the best thing for us, not to go at all, or take us down to Poundmaker's.

Q. Did you say anything to Big Bear personally about going? A. I did not say anything personally.

Q. You say you had a conversation with Big Bear when nobody else but you and Maclean were present? A. Yes, I told him it was best for us not to go down to Poundmaker's as we hear Poundmaker had no provisions and he could not furnish the whole band of us with provisions.

Q. And then was it before or after that that the prisoner said he did not want to go? A. He then said he did not want to go.

Q. Was it after you were told about the shortness of provisions that he said that? A. Yes.

STANLEY SIMPSON, sworn:—

Examined by Mr. Scott:

Q. Where were you living in April last? A. At Fort Pitt.

Q. What occupation? A. I am a clerk in the Hudson Bay Company's service at Fort Pitt.

Q. Do you remember what occurred about the 17th April there? A. Yes, the fort was taken by the Indians on the 17th.

Q. Was there anything happened previous to the fort being taken? A. Yes, the Indians came down there on the 15th.

Q. What did they do in the meantime, before the taking of the fort? A. Well, they took Mr. Maclean prisoner.

Q. When was that? A. That was, I think, on the 16th.

Q. How did you know he was taken prisoner? A. I saw him. I saw the Indians take him, and we wrote a letter down to the fort.

Q. Where was he taken? A. He was taken up from the hill to Big Bear's camp.

Q. Who is Mr. Maclean? A. Officer in charge of the Hudson Bay Company's post at Fort Pitt.

Q. Did you see who took him? A. No, I did not see who took him. I did not recognize the Indians from where I was.

Q. It was some distance from where you were? A. Yes, I suppose it is about 250 yards.

Q. Did anything happen beyond that? A. Yes, there were some scouts out.

Q. From what day? A. Well, they were out for two days. I think it was the 15th, the same day that Maclean was taken prisoner, that the scouts came back again, and the Indians fired on them and killed Cowan.

Q. Did you see that? A. Yes.

Q. How far was it from the fort that he was killed? A. About between 400 and 500 yards.

Q. How did you see him? A. I had a telescope.

Q. You saw that he was fired upon by the Indians? A. Yes.

Q. And killed? A. Yes.

Q. Did you see him afterwards? A. Yes.

Q. You saw his body afterwards? A. No, I did not see his body. I was not right up close to his body, but I saw his dead body lying there.

Q. That was on the 15th? A. Yes.

Q. Before or after Maclean was taken prisoner? A. The same day, afterwards. Mr. Maclean was in the camp while the shooting was going on.

Q. You say he sent a letter into the fort? A. Yes, to Mrs. Maclean.

Q. What happened after that? A. Then we went up to Big Bear's camp. The policemen went away in scows, and we went up to the Indians.

Q. The police that were in the fort left the fort in a scow? A. Yes.

Q. And you went up to the Indians? A. Yes.

Q. Did anything happen at the fort after you left? A. Well, the fort was taken; it was pillaged.

Q. By whom? A. By the Indians that came down.

Q. Did you see the prisoner after you went up? A. Yes, I met him on the hill; I saw him at the camp.

Q. After you went up to the camp with the others, you saw the prisoner there? A. Yes.

Q. Who was he with? A. He was just walking about the camp.

Q. He was in the camp with the rest of the Indians? A. Yes.

Q. You say the fort was pillaged, how do you know that? A. Because I saw the fort afterwards, and there were no goods in it, and I was down there the next day and saw how things were; there were no goods left in the fort, and everything was broken and destroyed.

Q. What was done with you after you went up to the camp? A. I was taken over to the Lone Man's tent. He was the man who took me prisoner.

Q. What others went out of the fort to the Indian camp with you? A. Mr. Maclean and his family and Mr. Mann, the foreman instructor, and his family, and the Rev. Mr. Whinney and his wife, and our interpreter was taken prisoner at the same time with Mr. Maclean, and there were several half-breeds in the house at the time; in the fort.

Q. Were the others taken prisoners? A. Yes, they were all taken prisoners.

Q. They were all taken prisoners at the same time? A. Yes.

Q. Then you were detained as a prisoner for how long? A. A little over two months.

Q. Then you were a prisoner with the Indians at the time you say that the fort had been pillaged? A. Yes, next day, the day after I was taken prisoner, I went down to the fort, and I saw how things were there.

Q. Did you go alone? A. No, Mr. Halpin went down with me.

Q. Were the Indians with you? A. Yes, there were Indians.

Q. So you were a prisoner at that time as well? A. Yes.

Q. Where did they go to after leaving Fort Pitt? A. Went to Long Lake where their camp was, where they had left the women and children.

Q. They went back there? A. Yes.

Q. Did you see the prisoner afterwards at any time, this prisoner there? A. Yes, I saw him at Frog Lake, after he got back there.

Q. After leaving Frog Lake, where did you go? A. We came down towards Fort Pitt again.

Q. From the time you were taken prisoner, for several weeks afterwards, what were the Indians doing? A. They were feasting and killing cattle.

Q. Whose cattle? A. Well, they had some of the Hudson Bay Company's cattle there, and I can't say, I did not know those cattle.

Q. What do you mean by feasting, what kind of feasting? A. They were having dances.

Q. What kind of dances? A. They have a tent erected.

Q. What do you call that dance? A. I think they call it the grass dance. I am not sure about it.

Q. What do they do? A. They have music and grub. They generally kill a dog or so and have something to eat.

Q. Did you see the prisoner at any of these dances? A. No, I did not see him—not at any of those dances. I saw him at the council.

Q. Where? A. At Frog Lake.

Q. Did you hear him saying anything in council? A. I have heard him speak, but I don't remember just exactly what he said. These dances were at Frog Lake.

Q. But you did not hear him speak at any dances? A. Yes, I heard him speak at a thirst dance at Frenchman's Butte, somewhere near Frenchman's Butte.

Q. Who was he speaking to? A. He was speaking to several of his Indians.

Q. You mean the Indians of his band? A. Well, there were some of his band present, and some of the Wood Crées besides.

Q. What did you hear him say? A. He cut up a piece of tobacco, and he said he wanted his men to cut the head of the white people off the same as he cut this piece of tobacco off. He wanted the head. I suppose it is the officer who was commanding the police at that time.

Q. Do you know what the literal translation of that is? A. Yes. I think it is, master who is over the soldiers.

By Mr. Robertson:

Q. Do you understand Crée? A. I don't understand it clearly. I understand a good deal more than I can speak.

By Mr. Scott:

Q. Then you understand Crée? A. I understand a good deal of it.

Q. Then you heard him say this that you have been telling us? A. Yes.

Q. And you understood it? A. I understood it.

Q. What did he say about the master who was over the soldiers? A. He said that he wanted them to cut off his head, after they were to capture him, cut his head off.

Q. And he also said he wanted to cut off the head of all others? A. Of white people that were in the country that were on land that they had not paid him for, he used principally, the head of the officer in charge, but he did not say how they were to kill them. He did not say they were to cut off the heads of the white people, but they were to kill them.

Q. And he wanted the head of the master of the soldiers? A. Yes.

Q. Did you hear anything from any other members of the band as to their design there? A. Yes, you mean as to what they —

Q. What did you hear as to their intentions? A. They intended to take the country for the Americans, they said, who would pay them well for having taken it.

Q. Who said that? A. The Indians in Big Bear's band.

Q. Can you name any particular Indians? A. The Lone Man is one, I could not name them all.

Q. Is Lone Man the one who took you prisoner? A. Yes.

- Q. Who was he saying it to? A. He told me himself.
- Q. Did you see a fight in the neighborhood of Frenchman's Butte? A. I can't say that I saw it.
- Q. Where were you? Did you know of that fight going on? A. Yes.
- Q. How did you know? A. I heard the guns and cannon, and I heard the volleys that were fired, and I came very nearly getting struck myself when I was coming back to where Maclean and the rest of the prisoners were, with a shell.
- Q. Did you see this prisoner at the time of that fight? A. Yes.
- Q. Where was he? A. Well, I saw him following up. He was at the camp when I got there, at the clump of pines.
- Q. How far from where the fight was going on? A. About two miles or so.
- Q. What time was this in the day? A. Early in the day.
- Q. When did the fight commence? A. Somewhere between six and seven in the morning.
- Q. And when what time was it over? A. I think they fought for three hours.
- Q. You saw him in the camp about two and a half miles from where the fighting was going on? A. Yes.
- Q. You saw he came in there? A. He came into camp.
- Q. Was it before or after the commencement of the fight that he came in? A. It was after the commencement of the fight. They had been fighting for some time.
- Q. The fighting had been going on for some time when Big Bear came in? A. Yes.
- Q. Did you see him come in? A. He was out somewhere—I don't know where he had been. I saw him on horseback. I don't know where he came from, he rode in.
- Q. Did you hear him say anything that day? A. Yes, I heard him say that his men had already killed eighteen or twenty soldiers.
- Q. What caused that remark? A. He had a man with him who told him, who seemed to come from the fight.
- Q. There was a man came in from that direction? A. Yes.
- Q. And told him something? A. Yes, he told him I suppose. I don't know what he told him.
- Q. But you saw him speaking to Big Bear? A. Yes.
- Q. And then Big Bear afterwards said—give it in his own words as near as you can or the interpretation of his words? A. He said, they have killed twenty soldiers already, my men—he did not say his men, but we have killed twenty soldiers already, and then he made use of an expression which meant very good. (Mr. Hourie, court interpreter, says it means well done.)
- Q. How long did the prisoner remain with the band while you were a prisoner? A. I don't know exactly how long it was, but he said, until shortly after the fight at Loon Lake.
- Q. About when was that? A. It was about a week or ten days or a little more, after the first one.
- Q. Until after the fight at Frenchman's Butte? A. Yes.
- Q. About ten days after? A. Something like that, I could not be certain.
- Q. Then what became of him or you? How did he become separated from where you were? A. The Wood Crees went in one direction, and he went in the other.
- Q. Where did you go with him? A. I went with the Wood Crees.
- Q. Did you know the object of the separation or the reason of it? A. The Wood Crees had been talking about separating for some time, and I heard the Indians say that they would only camp, only allow Big Bear to camp with them one more night, and then that he must go.
- Q. Only allow Big Bear—? A. Well, himself and band.
- Q. By whom were you taken prisoner? Lone Man took you prisoner; was he one of Big Bear's band? A. Yes.

Q. How did you happen to go with the Wood Crees when you were taken prisoner by Big Bear's Band? A. We were told that the Plain Crees would kill us.

By Mr. Robertson :

Q. You were free to go with whichever you liked? A. No, they did not want to let me go.

By Mr. Scott :

Q. Who did not? A. Lone Man.

Q. Why? He wanted to take me across the line with him.

Q. Then, how is it that you went with the Wood Crees? A. He wished to make me work too much, and I wanted to get to the same place where Mr. Maclean was, and I ran away from him.

Q. And got—? A. To Mr. Maclean's camp with the Wood Crees.

Q. How were you treated when you were a prisoner? A. I was not treated very well.

Q. What was your treatment? A. Well, at first as far as provisions went, we had lots to eat. I was made to work, to cut roads and dig rifle pits, make breast-works, and different work, any work they chose to put me to.

Q. Was that the way you were treated first? A. Well, at first I was treated pretty well. They gave me a horse to go on for the first day. I was told that the horse was to be mine all through, all the time that I was with them, and I took the horse. I thought it would not be very hard to stay with it, and he promised to let us go in a couple of weeks, and next morning when I came to get the horse—the Lone Man, it was his horse, told me there was no horse for me, that I had to get to work and load his carts with bacon and flour.

Q. After that you were a "hewer of wood and drawer of water"? A. A kind of slave.

Q. Where did they dig the rifle pits? A. At the first fight at Frenchman's Butte, near there.

Q. Did they put you to work at rifle pits there? A. Yes.

Q. Do you know who the soldiers were that they were opposing? A. I know now, but I did not know just then—the day after the fight, I knew who they were.

Q. How did you know? A. Some of the Indians found a memorandum book belonging to one of the soldiers, and I read it through.

Q. But did you hear any of the Indians saying anything about the soldiers? A. They said they were Indians commanding them. They said there were only a few soldiers, and the rest were Indians.

Q. Was anything said as to what soldiers? A. They saw the red coats, and they imagined they were policemen.

Q. Then they thought they were fighting against the police? A. Yes, and then they saw others with other uniforms on, and they did not know whether they were half-breeds or white men.

By Mr. Robertson :

Q. You suffered a great deal during those two or three months? A. I did not suffer a great deal.

Q. You were not badly treated then? A. I had to work pretty hard, a good deal more than I had been accustomed to.

Q. Were you or were you not badly treated? A. I think that I was badly treated.

Q. Very badly treated? A. At the last I was very badly treated; towards the last, before the Indians separated.

Q. And it was Lone Man that had you as a prisoner? A. Yes.

Q. It was he made you do the work? A. Yes; I had to work for several other Indians afterwards, but Lone Man it was who set me to work digging holes and feeding his horses.

Q. It was Lone Man that treated you so badly? A. Yes.

Q. And you have been very ill in consequence of the treatment you have received? A. Yes, I think that I would not have been ill unless I had had such treatment.

Q. And you have felt your sufferings very keenly? A. I did while I was ill, certainly.

Q. Where were you when the fighting began at Frenchman's Butte? A. I was right at the place where the Indians had made the holes. When the fighting commenced I was some distance from there. I took the wrong road and I went into the valley to get some clothes of mine.

Q. What valley? The same valley that the troops came up afterwards? A. Yes.

Q. What time in the morning was that? A. It was just when the women and children were starting off from the holes that they had dug, to go into bush.

Q. The women and children were running off when you started? A. Yes.

Q. How early was this in the day? A. I suppose it was early in the morning.

Q. Six o'clock? A. I guess it was about six o'clock, between five and six.

Q. Was that before the fighting began there? A. Yes.

Q. How long did you remain down there? A. I just went down there, and I was called back again. There was a scout or something had been sent, so the Indians said, and they called me back.

Q. Almost immediately? A. I had got very near down to the end of the camp. I got right down to the end of the camp.

Q. How long did you remain in the valley? Did you come back? Did you just go down and come right back, or spend any time there? A. I was down about 10 minutes.

Q. And you came back up the hill again? A. I came up the hill.

Q. Where these Indians had dug their rifle pits? A. Yes.

Q. How long did you remain there? A. I did not remain there any time at all.

Q. You went right back? A. Yes.

Q. Where did you go next? A. I got on the wrong trail and followed it up for a long way, I suppose two or three miles, two and a half miles anyway, and I caught up to some Indians, and was running, and I asked them if Maclean and family were on this trail, and they said no, and I ran back again to where I found the forks of the road.

Q. How far was that from the camp? A. About two and a half miles from where I found Maclean after I got—

Q. How far was this from the Indian camp? A. I came right back to the camp.

Q. How far was this fork in the road from the Indian camp? A. Just at the camp.

Q. And how far was the camp back from where the rifle pits were? A. The rifle pits were on the edge of the hill—they were almost together.

Q. The camp was almost together with the rifle pits? A. The rifle pits just on the brow of the hill, and the camp—the holes that they had dug for the women and children to hide in—were in the valley.

Q. How many hundred yards were they apart? A. Some of them were 300 or 400 yards apart, and others right close, a few yards from the holes.

Q. The tents? A. No; the tents were in the valley. They had no tents in these holes.

Q. Well, how far was the camp from the rifle pits? A. I suppose, about 200 yards; that is, the closest part of the camp.

Q. Well, you came back there, then, to the camp at the junction of the roads, and then started off on the other road? A. To make holes for women and children in the camp.

Q. Is that the camp? A. They deserted the tent, and they had come in these holes to sleep at night, and that is what I have been speaking of as the camp; and then, when you mentioned the other camp, where the tents were—I have spoken of two camps.

Q. Where were the tents? A. Down in the valley.

Q. Close by, also? A. Yes; about 200 yards.

Q. Then the junction of the road was just here where the tents were, was it?
A. Just where the holes were.

Q. Farther up, then? A. Farther up.

Q. So that you came back to the junction of the road quite close to the rifle pits?

A. Yes, pretty close to them.

Q. And then you went back on the other road to follow up Mr. Maclean? A. Yes.

Q. How far did you travel before you found Mr. Maclean? A. Two or three miles.

Q. Did you stop on your way there? A. Yes.

Q. Where did you stop? A. I sat down on the road and took out some thorns out of my feet, my moccasins were full of holes, and I sat there for a while and I stopped up the holes. When I went down there, there were some men—the prisoner's son was there—and they were cooking some meat, and the fight was going on then.

Q. Imesis was there? A. Yes.

Q. How long did you remain there then? A. I suppose about a quarter of an hour.

Q. What time in the morning was it then? A. I could not say. I went up these two miles or more and back again.

Q. Were you an hour in going into the valley, from the valley into which you had gone to get your traps, in going back along the road until you overtook the Indians and found your mistake and then came back to the pits? A. I guess I was an hour.

Q. About an hour? A. Yes, or an hour and a half.

Q. Then you left the rifle pits and came up the other road? A. Yes.

Q. Which you say was only two and a-half miles? A. Yes, or three.

Q. Wasn't it four? A. I would not say.

Q. Wasn't it five? A. I would not say.

Q. You would not say it was not five? A. No.

Q. And when you got there—you said the prisoner was at the camp when you got there? A. I saw him there at the camp. I don't say I saw him just as I got there, but I saw him there in the camp.

Q. You did say that? You said the prisoner was at the camp when you got there? A. He was. I don't remember now what I said.

Q. And you won't say that that was not five miles back from the camp? A. I can't say how far it was; it took me some time to get there.

Q. How much time did it take you? A. I could not say. I suppose, half an hour or so; it took me more than half an hour.

Q. Didn't it take you two hours? A. No; I can go faster than that.

Q. I don't ask you to measure it by the distance you have given us, but give us from your recollection how long it took you to get there in order that we may judge the distance? A. I can't tell you how long.

Q. Will you swear it did not take you two hours to get there. A. No.

Mr. Robertson here asks witness as to his knowledge of Cree.

Witness.—I don't say I speak Cree thoroughly. I have been with the Indians three or four years now. I can understand what they say, especially about killing people. I heard such a lot of it spoken while I was at Pitt that I would understand it.

Q. Where were you standing when you heard this conversation? A. As close as from Big Bear.

Q. Who else was present? A. I can't say. There were other Indians with Big Bear, but I can't say there were any other people who heard.

Q. They were standing close by? A. Yes.

Q. Can you tell us something else that any of them said? A. I can't give you—

Q. You can't remember anything else that was said at that time? A. No, I would not say.

Q. Was there something else said that you don't remember? There was a good deal of talk, wasn't there, going on? A. They were just talking amongst themselves.

Q. And there were several talking at the same time? A. They were not talking at the same time that the prisoner was talking.

Q. But they were all talking amongst themselves at that time? A. Not while he was speaking—they were listening to him.

Q. But there were several speeches made, several things were said by the different Indians? A. I can't say that; I don't remember.

Q. You don't remember anything said by any of the other Indians that was bloodthirsty? A. Oh, yes.

Q. At that time? A. No, not at that time.

Q. Did you hear the prisoner at a council meeting, or at any other place where there were a number of Indians assembled, complain and say there was a time when I was a big chief, and you used to do what I told you, but now I say one thing and you do another? A. I have heard the chief say words to that effect.

Q. When was that? A. I can't remember where it was; I have heard him say it so many times.

Q. You did hear him frequently make that complaint? A. Yes.

Q. What was he referring to? A. I suppose to anything that he told them to do, but I could not say any particular thing that he referred to. I have heard him say that he did not want the prisoners killed, and things of that sort.

Q. It was when the other Indians wanted to kill them? A. Yes.

Q. That he was saying that? A. Yes, I heard him make that remark when the other Indians wanted to kill us.

Q. He was trying to control them and prevent it? A. He was trying to.

WILLIAM TOMPKINS, sworn:—

Examined by Mr. Scott:

Q. You are an interpreter in the Indian Department? A. Yes.

Q. Stationed at Fort Carlton? A. Yes.

Q. In March last? A. Yes.

Q. I understand you were taken prisoner on that day, the 18th March? A. Yes.

Q. By a number of armed rebels, half-breeds and others? A. Yes.

Q. Under Louis Riel? A. Yes.

Q. They were in open rebellion? A. Yes.

Q. How many were there? A. I should judge there were about 400.

Q. Four hundred in open rebellion under that leader? A. Yes.

Q. A fight took place at Duck Lake? A. Yes.

Q. Between the mounted police and the—? A. Rebels.

Q. And you and others were taken prisoners, as I understand, on the 18th March? A. Yes.

Q. And were held till the 12th May by these rebels? A. Yes.

Q. What was the state of the country during the interval between the 18th March and the 12th May, in that neighborhood? A. It was all in insurrection.

Q. They were in a state of general insurrection up there? A. Yes.

Q. And you were held as a prisoner up till the 12th May? A. Yes.

Q. They met the Government troops, I understand, on several occasions? A. Yes.

Q. And men were killed on both sides? A. Yes.

Q. And houses and stores were plundered and burnt? A. Yes.

By Mr. Robertson:

Q. This was in the neighborhood of Batoche that you speak of? A. Yes.

Q. That is a long way from Frog Lake? A. Yes.

Q. And from Fort Pitt? A. Yes.

Q. How far? A. I don't know the number of miles.

Q. How many days' journey? A. I should say about six days.

Q. About six days' journey from Frog Lake or Fort Pitt? A. Yes.

STANLEY SIMPSON, recalled:—

By Mr. Robertson:

Q. Just tell us in Cree what it was that Big Bear said on that occasion in the camp, at the battle of Frenchman's Butte? A. I can't say it.

Q. You can't say? Can you say any part of it in Cree? A. Yes, I can say a word here and there through it, but I can't make any sense of it. I can't pronounce the words properly.

Q. And that was about all you could hear, all you could make out of the sentence? A. I can understand a good deal more than what I can say.

Q. But you cannot understand perfectly? A. No; I said so.

Q. And after all it was to some extent a guess of yours, that that was the meaning of what he said? A. No; I could understand that he said this.

Q. You are prepared to stick to that, although you cannot tell us, you cannot repeat even the sense of it in Cree? A. No, I can't repeat it in Cree.

Mr. Scott.—I would ask my learned friend, in order to test the knowledge of the witness in the Cree language, to put a question to him in Cree; give it to Mr. Hourie to give him in Cree, and see if he can answer it. That is all he says he knows about it.

Witness.—You don't want to put a very hard question to me, or perhaps I will not be able to answer it. Big Bear spoke very slowly; he always does. (A question is here asked by Mr. Hourie.) I am asked by Mr. Hourie if he had given me some tobacco, or something of that sort—I cannot understand it, I don't understand enough of it.

By Mr. Scott:

Q. Do you know the Cree for "killing"? A. Yes.

Q. What is it? A. If I said I killed him, I would say "Nip-a-how."

Mr. Hourie.—That is right, just the word "kill."

By Mr. Scott:

Q. What is it for cutting a man's head off? A. I can say "man's head" all right enough, and he had his knife, and he cut the tobacco off, and he says, the same as I do with my knife.

Mr. Robertson.—Give us the words.

By the Court:

Q. They use a great many signs as words? A. I would not be here and say I understood it, if I didn't.

By Mr. Scott:

Q. How long have you been in the trading? A. Very nearly four years.

Q. With Cree Indians? A. Yes.

Q. Entirely? A. With a few of the Stoneys, while I was at Battleford.

Q. What do they speak? A. A sort of dialect of the Sioux.

Q. Then the business was almost entirely carried on with the Cree? A. Yes. I can trade with a Cree Indian all right enough. I understand the trading part of it. I can tell all the names of everything we have in the store for sale, and trade with them all right enough, furs or anything of that sort in Indian.

Q. You carry on conversation with them in what language? A. Well, I try to talk to them in Cree.

Q. And what is the result? A. Generally arrive at a satisfactory—

Q. Understanding? A. Yes.

Mr. Robertson.—I can talk to an Indian to a certain extent without any words at all. The words that were read to the witness were: "If the captain of the

soldiers does not give us tobacco, we will cut the tops off the trees," and all you got hold of was "captain" and "tobacco."

Witness.—I did not mention the word "captain," I said the "master" of the soldiers. The verb is what I did not understand.

Mr. Robertson.—I wish to submit that the evidence of that conversation should be struck out. The proper evidence of such a conversation would be a proof of the words used by the prisoner, and then an expert properly qualified to translate them. That is the legal evidence of a conversation of that kind.

Court.—I may have something to say to the jury about that.

BAPTISTE FONTAINE, SWORN :—

Examined by Mr. Scott :

Q. Where were you in May last ? A. Poundmaker's camp.

Q. Where was that ? A. Cut Knife Hill.

Q. How did you get into his camp ? A. Got captured by the half-breeds. A half-breed caught me.

Q. Some half-breeds captured you ? A. Yes.

Q. What were you doing at the time you were captured ? A. Scouting.

Q. For what ? A. For the Government.

Q. Where were your headquarters at the time ? A. Battleford.

Q. You were scouting from Battleford for the Government at the time you were captured by the half-breeds ? A. Yes.

Q. What did they do with you ?—A. They came over to the camp.

Q. What camp ? Poundmaker's camp ? A. Yes.

Q. How long were you kept there ? A. Twenty-two days, I think.

Q. What did you find when you got to the camp ? What were the Indians doing ? A. Nothing.

Q. When did you say you were taken there, what day ? A. 7th May, I think.

Q. Do you know anything about a fight that occurred in that neighborhood about Poundmaker's camp, at Cut Knife—

By the Court :

Q. Was there a fight ? A. I think so.

By Mr. Scott :

Q. You don't know ? Well, were these men that captured you, armed ? A. Some of them.

Q. What were you doing when they captured you ? A. I jumped off my horse.

Q. Had they been chasing you ? A. Yes.

Q. Did they do anything when they were chasing you ? A. They were shooting at us.

Q. And these men took you to Poundmaker's camp ? A. Yes.

Q. Was Poundmaker a prisoner of theirs ? A. I don't know.

Q. Had they taken him prisoner ? A. I don't know.

Q. Did you see Poundmaker there ? A. No, I never saw him before.

Q. But you saw him when you went to camp ? A. No.

Q. Didn't you see him during the time you were in camp ? A. No, because I did not know him. I might have seen him.

Q. When did you first see him to know him ? A. The first time I seen him was in here.

Q. Do you know whose camp you were taken to ? Did he tell you where they were taking you to ? A. They told me they were taking me over to the camp, Poundmaker's camp.

Q. Did you see any others armed there besides, at the time they had taken you prisoner ? A. I saw Indians armed.

Case for the Crown here closed.

Mr. Robertson.—Does your Honor think there is a case?

Court.—I cannot stop a case, Mr. Robertson.

Mr. Robertson.—Your Honor has the power of a judge at *nisi prius*.

Court.—I can only tell the jury what I think of it.

Mr. Robertson.—Unless the constitution of the court is a little different from the Court of Assize.

Court.—That is strictly the power of a Court of Assize.

Mr. Robertson.—Then I will call.

Mrs. CATHARINE SIMPSON, sworn:—

Examined by Mr. Robertson:

Peter Hourie, interpreter, also sworn.

Q. Do you know Big Bear, the prisoner? A. Yes.

Q. Did you see him on the 2nd April last? A. Yes.

Q. Where did you see him? A. In my house.

Q. At Frog Lake? A. Yes.

Q. Was your husband, Mr. James K. Simpson, there at the time? A. No.

Q. He was away at Fort Pitt was he? A. Yes.

Q. What time in the morning was it that you saw Big Bear? A. I could not tell exactly the time, but I think it must have been pretty nearly the middle of the day.

Q. What was Big Bear doing there?

Mr. Scott objects to what the prisoner said.

Mr. Robertson asks that it be allowed.

Court.—What did he do there—the question should be what did he do there?

Q. Well, what did he do there? A. He did nothing there only what he told me.

By Mr. Robertson:

Mr. Robertson.—It is really part of his conduct in connection with what was occurring there; it is something that he came and said to her.

Court.—But that would not be evidence.

Mr. Robertson.—I think it would be in that view. For instance, let me put an hypothesis. Supposing he came to her and warned her he was afraid his young men were going to make trouble, and that he wanted to make herself safe, that would be conduct.

Court.—Wouldn't that be almost parallel to the horse case, where it is not allowed to show that the prisoner told the brother of the owner's that he would not steal the horse and afterwards he is charged with the theft?

Mr. Robertson.—He comes and actually warns her she will be protected.

Q. Tell me what he did; what did he do then? A. He said pack up your things, I think there is going to be trouble.

Q. For what purpose did he tell her that?

Mr. Scott.—There must be a stop to this somewhere; I don't want to let this go too far.

By Mr. Robertson:

Q. Was he friendly or not to you; did he appear friendly to you or not; did he appear to wish you well or not? A. He appeared to be friendly.

Mr. Robertson.—I propose to ask if he said anything about the young men, the Indians, when giving her this warning.

Mr. Scott.—That is not only objectionable because it is not evidence, but because it is a leading question.

Court.—It would not be evidence at any rate.

Mr. Robertson.—I submit it would be just in that way.

Court.—I will take a note of it.

Mr. Robertson.—He went there to give her a warning, and what he said in that is really part of his conduct at the time, and that is the ground upon which I ask this.

Court.—I feel that I give you, Mr. Robertson, every reasonable latitude, but there are places where the lines must be drawn. What is it you want to ask her?

Mr. Robertson.—I want to ask her if, at the time that he was giving her this warning, he said anything about the young men or his band.

Mr. Scott.—I object to anything further than the warning being given.

By Mr. Robertson:

Q. Well, what did he do after that, or what did you do? What took place after he gave you that warning? A. He said gather up your things, I can't be everywhere to look over my young men. I think that there is going to be trouble.

Q. How long did he remain there? A. Not long.

Q. How long, half an hour? A. I don't think it could have been over an hour.

Q. What was he doing while he was there? A. He had something to eat.

Q. Did you give it to him? A. Yes.

Q. While Big Bear was there, having something to eat, did anything happen outside? A. Yes.

Q. What happened? A. They were massacring outside, killing.

Q. What was the first you heard of that? A. A person came and told me.

Q. Did you hear anything before a person came and told you? No.

Q. Who was it came and told you? A. Ka-wich-i-taw-ma-we, a Cree Indian, who was killed at the fight afterwards.

Q. What did he tell you? A. This man came and told me not to be afraid, there is something that is going to happen that is very bad. So don't you be afraid. Although I am counted as little or nothing, whatever I say—

Q. But what did he tell you about the murdering? A. He did not tell me anything else only what I am saying just now.

Q. How did you first know that anything had been done outside? Did you hear shots and that, and what took place then? Before the Indian came, or while Big Bear was there? A. While Big Bear was eating, I was packing up my little things. I heard a shot outside, and I ran out to the door and I saw the man fall, so then I went into my house again.

Q. And what did Big Bear do? A. Big Bear got up and went out, and I heard him say, don't do so, stopping it.

Q. Big Bear jumped up and ran out and cried out, stopping? A. Stopping them from what they were doing.

Q. Can you tell me what it was he said in stopping them? A. Don't do so, that is, leave it alone.

Q. You heard him crying that out? A. Yes.

By Mr. Scott:

Did you know of any trouble before Big Bear came into the house that morning? A. No, I was sleeping. I was taken by surprise.

Q. Do you remember about what time in the morning Big Bear came in, were you out of bed when he came? A. I was out of bed.

Q. Had you gone to sleep again? A. I had just got out of bed when he came in, I slept long that morning, and I had just got out of bed when he came in.

Q. When you ran out of the house when you heard the shot, did Big Bear run out at the same time? A. Yes.

Q. You suppose he heard the shot as well? A. He heard it.

Q. Where were the other people of the settlement when you got out there? A. They were standing outside, close to their house; close by their house, their own house, close by Simpson's house.

Q. Did you see Pritchard there? A. Yes.

Q. Where was he standing? A. At my house.

Q. And how far was that from Quinn's house or Delaney's or where Pritchard said he was staying? A. I think the distance would be about as far as from here to the new house of Mr. Reed out here (about 100 yards from court house) or a little bit further.

Q. What distance? A. My house from Quinn's house.

Q. Do you remember Pritchard coming to your house to see Big Bear. A. Yes.

Q. What did Pritchard say when he got in? What he came for? A. Pritchard and Tom Quinn came into my house, our house, and spoke to Big Bear, and said come here we want to speak to you, so Big Bear just sat down about a yard from me, from where I was sitting.

Q. And what did John Pritchard say? A. Pritchard did not say anything, but Tom Quinn said this: Big Bear, could I remain at my own house, and Pritchard the same, and this woman also? Oh, I suppose you could, Big Bear said.

Q. Was that all? A. When they went out, I just quickly got hold of my things and I wanted to go after them. They were already a piece from me, and when they were getting on to their house, I heard a shot and saw the man drop; this was Tom Quinn. I was going to follow them to go to Quinn's house, but Quinn and Pritchard were quite a bit ahead of me already, and I heard the shot, and when I looked I saw the man drop, Tom Quinn.

Q. Did Big Bear tell you what you were to do yourself, to be in safety? A. Yes, Big Bear told me, don't be afraid.

Q. What was he going to do with you or what did he want you to do? A. Yes, he told me to go to the camp, so I went to the camp.

By Mr. Robertson:

Q. When did he tell you that? Was it after or before Quinn was shot? A. It was before Quinn was shot that he told me this.

Q. Did he give you any reason or why? —

Mr. Scott.—What did he say?—if it is evidence.

Mr. Robertson.—Well, I will leave that in your Honor's hands. I think my learned friend might very well exercise his discretion and let the question be asked. The witness is very nervous, and it is very hard to get evidence from her.

Witness (to Mr. Hourie) that is all, what I have said.

W. J. MACLEAN SWORN :—

Examined by Mr. Robertson:

Q. Mr. Maclean, you were Hudson Bay factor in charge of Fort Pitt in the spring of this year? A. Yes.

Q. Do you know the prisoner, Big Bear? A. Yes, I know him.

Q. How long have you known the prisoner? A. Since the 29th of last October.

Q. Have you known him by reputation? A. Yes.

Q. How long before that time? A. Probably seven or eight years before.

Q. What has his character been? A. Generally good.

Q. Have you ever known anything against him? A. No.

Q. Was he a good Indian or a bad Indian? A. Well, some say that the dead Indians are the good ones, but in his life I considered him a good Indian.

Q. This is a live Indian and you consider him a good one? A. Yes.

Q. Are you of that opinion to-day? A. Yes.

Q. You are still? A. Yes; I am still.

Q. You were taken prisoner at Fort Pitt by the Indians? A. By the Indians.

Q. The band to which Big Bear belongs? A. The band to which Big Bear belongs.

Q. You were there a prisoner for how long? A. Sixty-two days.

Q. During all that time you saw Big Bear's conduct? A. Yes, I may say almost daily, if not daily.

Q. And after that, you still remain of the opinion that Big Bear is a good Indian, though a live one? A. Yes, I do as far as the Hudson Bay Company—.

Q. Can you tell me whether Big Bear took any part himself in the pillaging of Fort Pitt? A. None to my knowledge or that I could see.

Q. Before the pillaging, you were taken prisoner, it has been shown? A. Yes.

- Q. And you were there in the Indian camp when the pillaging was going on?
A. Yes.
- Q. Did you see Big Bear on that day, the day of the pillaging? A. Yes.
- Q. How often? A. Once or twice I am sure of.
- Q. What was he doing? A. Nothing.
- Q. Where was he? A. I saw him at the fort, and I saw him in the camp.
- Q. But he was taking no part in the pillaging? A. No.
- Q. Did he have any of the goods that were taken from the fort? A. Yes. I believe he had—not taken by himself, however. I think he had some tea. I am sure that he had some tea given him.
- Q. Do you know where he got it? A. Given him by Little Poplar.
- Q. That is the extent of it? A. That is the extent of it.
- Q. Who were the leading spirits and the people who controlled that band during the time you were with them? A. Well, I think it was Wandering Spirit, most assuredly, with the prisoner's eldest son, Imesis, and Little Poplar, and Loison Mongrain—he was a strong leading man.
- Q. He was a leading man? A. Yes.
- Q. Was Big Bear a leading man? A. No, I don't think he was.
- Q. How did these others, particularly his son, Imesis, treat Big Bear during that time? A. With utter contempt.
- Q. Do you recollect a letter coming to Johnny Pritchard from Norbert Delorme, who was then in Poundmaker's camp? A. Yes.
- Q. Where was that? Where were you when that letter arrived? A. I was then at Frog Lake in the Indian camp with the Indians.
- Q. And you were sent for to read the letter, I believe? A. Yes.
- Q. Did you do anything in consequence of having read that letter? A. I did a good deal.
- Q. What did you do? A. In my own estimation I think I did a good deal. I tried to prevent the Indians from not being influenced by the contents of that letter, and prevent them from uniting themselves with Poundmaker at all.
- Q. Did Big Bear, in that attempt, side with you or against you? A. He sided with me always.
- Q. In everything that you did in trying to keep the Indians from joining Poundmaker? A. Yes, he never went against me.
- Q. But sided with you? A. Sided with me.
- Q. Were you present at Frenchman's Butte when the fight occurred? A. No.
- Q. Where were you? A. I was probably about, to the best of my recollection, three or four miles to the north of it.
- Q. Can you tell me where Big Bear was at the time of the fighting? A. I can't tell you where he was for every hour during the fight, but I can tell you that most of the time he was in the camp with us.
- Q. You are certain of that? A. I am certain of that.
- Q. But there may have been part of the time when you did not see, of course, you could not say? A. I could not say.
- Q. You say you were three or four miles away? A. I think it must be about between three and four miles back from where the fighting was. I know it was a good long walk before sunrise.
- Q. While the fighting was going on, you saw him several times there. A. I did.
- Q. Now, do you believe, from what you saw of him there, that he took any part in that fight? A. I don't think he did take any part in the fight.
- Q. As matter of fact, was he running away?
Mr. Scott.—That is leading.
- A. I think he was pretty well frightened. He appeared to be.
- Q. Did you see Mr. Stanley Simpson when he came in? A. Yes, I did. I think I may have seen him almost immediately.
- Q. Where was Big Bear when he came in, do you know? A. I think he was in the camp.

Q. When Stanley Simpson came in? A. Yes.

Q. That is in the camp with you? A. Yes.

Q. Does Stanley Simpson understand Cree at all well? A. Well, he does not understand a great deal, I think. To my knowledge he does understand a little.

Q. Is it anything more than that he understands a few words? A. Well, I don't suppose he could understand any conversation being carried on. He could understand short sentences.

By the Court :

Q. Would he understand such a sentence as you heard here? A. I don't think he would.

Q. I mean such as he described himself, not the one that was put to him in writing, but the one that he said was put? A. It is very possible he might have understood.

By Mr. Robertson :

Q. Do you recollect all that he said he heard Big Bear say at that time? A. No, I don't.

Q. What he said was that he heard Big Bear say that he wanted them to cut off the head of the commander of the police, as he cut a piece of the tobacco, and he wanted them to scalp all the whites and everyone that had taken their land? A. I am not really in a position to speak whether he could, or whether he could not.

By Mr. Scott :

Q. He was in the habit of trading with Indians and attending store generally, and carrying on general business with them? A. Yes, dealing with Indians is his chief occupation during the time, and he was at office work.

Q. And you would not allow him to transact with Indians unless he knew something of Cree? A. No, there was no necessity for his doing so for he could have an interpreter.

Q. I understood you to say you looked upon him as a good Indian as far as the Hudson Bay Company was concerned? A. Yes, because we were dealing with him.

Q. He was friendly with the Hudson Bay? A. Yes, with all around, I understood.

Q. Wasn't he the cause of a little trouble with the Indian Department occasionally? A. I don't know, I am sure.

Q. Wasn't he in the habit of grumbling about the way he was treated by the Government? A. Nothing more than anybody else.

By the Court :

Q. Was he or was he not, to your knowledge? A. A characteristic of Indians is grumbling.

Q. Was he not in the habit of giving trouble to the Indian Department? Was he complaining about the way he was treated by the Indian Department, by the Government? A. Yes, he did.

Q. Did he like the way he was treated? A. I did hear him, on one occasion, complain.

Q. Then, although he was on good terms with the Hudson Bay people, who live in that neighborhood, he was not on good terms with the Indian Department? A. I don't know that he was.

By Mr. Robertson :

Q. Do you know that he was not? A. No, I don't know that he was not.

By Mr. Scott :

Q. You say that the band took you prisoner at Fort Pitt, you were taken prisoner by the band? A. By, I may say, two men.

Q. Where were you taken prisoner? A. Well, some 300 or 400 yards north of the fort or west of the fort.

Q. How did you happen to be out there? A. I went out there to hold a parley with the Indians.

Q. With whom? A. With the whole of them, probably between 300 and 400 Indians.

Q. Were you sent for? A. Yes.

Y. By whom? A. I was told—

Mr. Robertson.—I submit the witness should not state what he was told or who sent for him, even on cross-examination.

By the Court:

Q. What was the message you received? A. I was told that the chiefs wanted to see me at a certain hour on the following day, evening, 14th April. They sent me this message, or they told it to me verbatim, face to face, that the chiefs, to-morrow morning, would like to see me, that they had something to tell me.

Q. The chiefs? A. Yes.

Q. Did they mention any names? A. They did not. There was no one chief to my knowledge recognized there.

Q. You went out the following day? A. I went out the following day.

Q. And had a parley with the chiefs? A. Yes.

Q. What chiefs? A. The prisoner in the dock, that one was listening, although I did not speak to him nor did he speak to me, and the Long Lake chief was there, and the Frog Lake chief was there, and this chief.

Q. What do you call this chief? A. Big Bear.

Q. He was not a chief? A. He was a sort of chief, I believe.

Q. I understood this man was the Frog Lake chief? A. No, he had no reserve yet.

Q. What was that he was grumbling about? A. I don't know exactly. I think it was the reverse of that. I think the Government was grumbling that he did not go on his reserve.

Q. What occurred when you went out? A. I had a talk with the Indians for some considerable time, with a view of being successful in getting them to desist from whatever intentions they might have when they came there, and go back peacefully on their reserves. I was prepared to give them some very liberal presents if I could only succeed in doing so, and I had been very successful with the Indians during my twenty-three years' experience amongst them. However, I failed. These two leading spirits I mentioned, Wandering Spirit and Louison Mongrain, jumped in front of me, and Wandering Spirit caught me. Now, he says, you have spoken enough, we don't want to hear any more; we are in a hurry, you must remain with us here, we don't want to hurt you, nor do we want to hurt your family. That is what he said—Wandering Spirit. If we wanted to hurt you we might have done so before.

Q. Then what did they want, did they tell you? A. So far as I could judge, they wanted the police to leave the fort, and they told me if I wished them to live to tell them to go, and get them to go.

Q. Did Big Bear say anything to this, this time? A. No, he was perfectly mute as well as the other chiefs.

Q. They were leaning to the side of mercy at that time? What did they want the police to leave the fort for? A. I can't tell you, unless we may draw the inference that they wanted to get possession of what was in the fort.

Q. Had you any conversation with Big Bear at any time about the police leaving the fort? A. Never.

Q. The police, as matter of fact, did leave the fort? A. They left the fort.

Q. How was that arrangement concluded? Was it by reason of an arrangement between the Indians and the police? A. Well, I suppose it was. I think it was. The prisoner in the dock advised them strongly to leave.

Q. Advised them? A. Yes.

Q. How? A. That they had better go.

Q. How did he advise them, he was not near them? A. By letters.

Q. Who wrote those letters, he did not write them himself I suppose? A. To the best of my knowledge Mr. Halpin did.

Q. But how do you know he was advising them in those letters? A. I can't say, it was at his dictation.

Q. Well, did you know as matter of fact that those letters were written by Mr. Halpin? A. Yes.

Q. Did you see them written? A. No.

Q. How do you know? A. Well, I am a pretty good critio as to handwriting generally. I can identify handwriting very well.

Q. Do you know what became of those letters? A. Yes, I think I do. Some of them I don't know what became of them, but some of them I know that wore into atoms in my pocket.

Q. Which particular letters were destroyed? A. I can't tell you, they were all pretty much to the same —

Q. What letters came into your possession? A. Two or three little notes.

Q. Written by Halpin? A. Yes.

Q. Were you there at the time they were dictated by Big Bear? A. No, it was impossible for me to be 500 or 600 yards away from the fort and in the fort at the same time, the letters were written in the Indian camp, and I was in the fort.

Q. It was before you went out that these letters were all written? A. Yes.

Q. The message that was brought to you, that caused you to go to parley with the Indians, was that letter? A. No, it was not, it was an interview I had with some of the headmen on the evening of the 14th. I spoke to them and they wanted me to meet them the following morning, indicating when the sun would be at a certain point in the sky, which I might say was about 10 or 11 o'clock, and at that hour I went out.

Q. On the 15th? A. On the 15th.

Q. And never came back to the fort? A. On the 16th I saw the fort in the afternoon.

Q. You were in it? A. I was inside of it, what remained of it.

Q. I understood you were taken prisoner on the 15th and were a prisoner 62 days? A. I was, and I was a prisoner even then when I saw the fort.

Q. Were you in the fort? A. I was.

Q. On the 16th? A. I was inside the fort on the 16th. I walked 500 or 600 yards to get into the fort.

Q. Who went with you? A. Various Indians, a great number, many of them I did not know by name. I would know their faces probably.

Q. Into the fort? A. Into the fort.

Q. The whole of them went in there? A. In and out as they felt inclined.

Q. Where were the police at this time? A. I couldn't say, but I believe they must have been down some considerable distance down the river.

Q. I understood the fort was taken, and they left on the 17th? A. I understood so myself from some of the witnesses that spoke in the box where I am myself just now, but such, however, is not the case, the fort was taken and vacated on the evening of the 15th.

Q. Now, when were these letters written by Halpin for Big Bear? Before you went to his camp? A. Before I went to his camp.

Q. And they were received at the fort before you left on the 15th? A. Yes, they were received on the 14th.

Q. Written and received on the 14th? You saw those letters in the fort? A. Yes.

Q. How many letters altogether? A. Four or five.

Q. Who did they purport to be from? A. They purported to be from Big Bear.

Q. Who were they addressed to? A. To myself, I am not sure, there might have been one addressed to Inspector Dickens who was commanding the North-West

Mounted Police then, and I am certain there was one addressed to one Sergeant Martin who was a friend of the prisoner in the dock, and he expressed his wishes to befriend him in that letter, Big Bear did.

Q. By asking him to leave? A. Yes; no doubt considering it was the only method of safety.

Q. How many letters did you receive? A. Probably three or four; I could not tell you.

Q. How many did you keep when you went into Big Bear's camp? A. I very likely kept them; all that were addressed to myself, but they were of very little importance to me at the time after I was in the camp.

Q. What did he say to you in those letters? What letters did you carry away with you? A. It is possible I may have had others, but they were never returned to me. The impression is that I carried away all addressed to me.

Q. I now propose asking what those letters stated? A. If I did not hand them to anybody else—it is perfectly impossible—if you or any other gentleman were in the same position I was in then, you could not have remembered what these notes contained; you might have remembered the purport. It was just to this effect: telling me to keep my wife and children together and to tell the police to leave the fort, to try and get away, which was a very great trial indeed.

Q. Did he say in any of those letters what you were to do with your wife and children? A. No, he did not; he told me he did not want to hurt us—the letter said—at least whether it was in words or not, I know it was so said in the letter that they did not wish to hurt me provided they could get hold of me alive.

Q. You say you saw some of the Hudson Bay stuff in his possession afterwards, some tea? A. Yes.

Q. Did you see anything else? A. Not to my knowledge. I might have seen some Hudson Bay goods with him, but they were not taken by himself.

Q. How do you know? A. Because I gave one or two blankets myself.

Q. But of the goods that you supposed were pillaged? A. That enables me to know he did not take them when I gave them.

Q. As to the pillaged goods—did you see any there? A. No. I am perfectly sure he had none, because I was very frequently in his camp—in the Indian camp. There was no one in the Indian camp so wretchedly poor looking as his.

Q. You read that letter from Norbert Delorme about joining Poundmaker? A. Yes, I did.

Q. And you endeavored to dissuade the band from joining Poundmaker? A. I did.

Q. What was your object in doing it? A. My object was that in the event of his joining Poundmaker it would add very materially to the strength of Poundmaker's camp, and in the event of being attacked by the troops which I was hopeful of being done every day, it would certainly have enabled Poundmaker to have resisted a much greater force with the additional forces of Big Bear than he could have done with his own.

Q. Now what means did you take to endeavor to prevent them from joining Poundmaker? A. Well, one must use a good deal of stratagem with the Indians, and it would not do to tell the Indians what my own object was. I had to use argument with them which I could carry home to them and show reason and endeavor to make them believe I was talking more especially for their good than for any other object of my own, because any other way they would not listen to me.

Q. As matter of fact you had considerable influence with the Indians there? A. I had influence with them.

Q. What stratagem did you use? In substance, the argument you used to prevent, then the line you took? A. I told them that although the letter was written by Norbert Delorme, although the letters represented a great deal of provisions in the camp, so many head of cattle, if they moved he would send them seventy cars to meet them at the Saskatchewan River, and he had set aside some eighty head of cattle to give them a good reception when they got down there. I said that is all very well on paper, but we don't know about the truth of it, you have lots of provision here and

you had better take care of them, the horses are poor, you cannot carry provisions, you have not sufficient transport for yourselves and women and children, you must either leave the women and children and take the provisions or leave the provisions and take the women and children. Now you are safe here for the present, you had better remain, meantime with a view that perhaps armed force may come and release us, meantime the grass will be growing and your horses will be getting fatter, and by-and-bye they will be stronger and you will know more what is going on, and the best thing to do is to send over and let them remain down there until after you have known news from Duck Lake, and certainly at that time there might have been something at Duck Lake, but very little else than Duck Lake.

Q. Were there other arguments used? A. No, I could not say, I could not touch upon anything whatsoever from which the Indians would infer that I was averse to any of their movements.

Q. Then you were advocating a policy of delay? A. Exactly.

Q. Was that argument used to Big Bear? A. Yes. I told him that I was using that argument with the men that we considered influential men in this camp, for himself he had no influence at that time. I had arrived at that conclusion conclusively that he had none, at the same time the Indians, leading spirits in the camp, appeared to be willing and ready to bring everything home to bear upon Big Bear.

Q. I understood you to say that he had assisted you? A. I don't know that he did, and I don't know that he did not.

Q. Assisted you in that argument that you were using? A. He may.

Q. I understood you to say so distinctly? A. I think he did, in this much perhaps, that he did not object to it.

Q. Was there any attempt or any threats made? Did you consider at any time that the lives of the prisoners were in danger? A. I did.

Q. To whom do you owe the fact, do you think, that the prisoners escaped with their lives? A. I don't think I can attribute our escape to any individual there. There were a few I think who were very anxious to see us released and get away safe; they were Wood Crees.

Q. They were anxious to see you get away? A. Yes, latterly, although I don't know originally beyond the very first few days I was with them. I thought at that time they would have released me and allowed me to go down Beaver River; however, they subsequently changed their minds.

Q. There was a separation between the Wood Crees and Big Bear's band after a time? A. There was.

Q. What caused the separation? A. Probably, I might have been the chief instigator in the matter myself. I wished to make a split in the camp, so that they would not be so unanimously—in any of their schemes, and I worked very successfully.

Q. Now what was the intention of the Wood Crees when they separated? What did they intend to do? A. When the Plain Indians left us, the intention was to flee as far as we could do, and they also.

Q. What were they to do? A. They were going north into an impenetrable country, a country probably that had never been trodden by the foot of white man before.

Q. They were trying to get away? A. Yes.

Q. And wanted not to fight any more? A. They did not wish to fight any more.

Q. And what did the Crees intend to do when they left? A. I could not say if the prisoner in the dock was candid enough to tell me his object.

Q. What did he say his object was? A. The first objective point was Turtle Lake, then south to the South Saskatchewan, and, after crossing fifteen or twenty miles up above Carlton, endeavor to see if there was still anybody at Duck Lake. I don't know what his intentions were after.

Q. You think that Big Bear was frightened at the battle of Frenchman's Butte? A. Well, I don't know that he was frightened.

Q. Well, weren't all the Indians pretty badly frightened? A. They did not appear to be so much frightened the day of that Frenchman's Butte fight, until the following day; then they did seem really frightened, but not very much—not so much as afterwards. I think that grew upon them as the time advanced. They were gradually daily getting frightened.

Examined by Mr. Robertson :

Q. Is it an easy thing to do business in trading with Indians without understanding very much of their language? A. Yes.

Q. A few words is quite sufficient? A. I know that by my own experience. I might do a little trading with the Indians, but not carry on a conversation.

HENRY R. HALPIN, SWORN :—

Ry Mr. Robertson :

Q. What was your occupation in the early part of this year? A. Clerk in the Hudson Bay Company's service at Coal Lake.

Q. Under whose orders were you? A. Mr. Maclean's, of Fort Pitt.

Q. That was a branch of Fort Pitt? A. Yes.

Q. How far from Frog Lake? A. Between thirty-five and forty miles.

Q. How long have you known the prisoner, Big Bear? A. From some time last November, I think.

Q. The prisoner personally? A. Yes.

Q. Have you known him by reputation before that? A. Yes, since I have been in this country—the last six or seven years.

Q. What has been his character? A. As far as ever I have heard, I have always heard he has been a good Indian.

Q. What has your experience of him been? A. My experience of him is that he is a good Indian.

Q. Is he a friend of the white man? A. Yes, he has always been, as far as I have known or heard of him.

Q. Do you know what Big Bear was doing during the latter part of last winter, where he was? A. Yes, I know where he was.

Q. Where was he? A. Out between Frog Lake and Coal Lake, on the road, out hunting and trapping around the country.

Q. Up to what time? A. The last time I saw him camped on that road was the 19th of March. I was going back from Frog Lake to my post at Coal Lake, and I met Big Bear camped there on the road.

Q. Did you give him any information there? A. Yes, I had a conversation with Big Bear then, at the time I was passing.

Mr. Scott.—I object to any statement made by Mr. Halpin.

Mr. Robertson.—I wish to show that certain intelligence was given by Halpin to Big Bear, and I wish to show as a fact, and as a matter of conduct, how he received it.

Q. Did you give him any information? A. Yes.

Q. What was that information?

Mr. Scott.—I don't think that is evidence.

Court.—I think the question may be asked.

Mr. Robertson.—And then, how did the prisoner look? It is a matter of conduct.

Mr. Scott.—Also, whether his jaw fell.

Mr. Robertson.—Yes, and to bring it out if it did fall. It goes to show the state of the prisoner's mind at the time he received that information, and where it is a question of intent, it is perfectly proper evidence.

Q. What did you tell him? A. I told him I had seen in the *Battleford Herald*, and at Frog Lake, that there was trouble in Batoche, and that Riel had stopped the mails there. I told him I thought there was likely to be trouble.

Q. Upon receiving that information, what did his conduct indicate?

Court.—No; I will tell you what I will do, though it is not strictly proper: I will let in his reply.

Mr. Scott.—Of course, I don't object to that.

By Mr. Robertson:

Q. What was his reply to that? A. His reply was: I think it is very strange. The reply was in Cree. He was surprised to hear it.

Court.—That is parallel with the horse case. You can have your own opinion somewhere else, Mr. Robertson, but not here.

Mr. Robertson.—The cases are not parallel. I want to ask the witness, also, whether this man was surprised by the intelligence from his appearance and demeanor at the time.

Court.—You have got his actual expression.

Mr. Robertson.—Judging from the manner and appearance of the witness at the time he conveyed it to him.

Court.—You have got the prisoner's answer, that he expressed surprise.

Mr. Robertson.—And your Honor rules out the question as to what his appearance and demeanor indicated upon the receipt of that?

Court.—Yes.

By Mr. Robertson:

Q. Well, you parted then? A. Not right away. I stopped and had dinner with him.

Q. And what next? A. I invited him to come up to my house at Coal Lake, come out and see me there, and he came.

Q. Did he come at that time? A. He came the day after the day I left there. He did not come next day, and then the day after that he came.

Q. Which direction did he go in? A. He stopped right at his camp.

Q. On the 19th you say it was you met him once? A. I passed him; he was at his camp, and I was going the other way.

Q. Were you at Frog Lake after that? if so, how soon? A. I was at Frog Lake after the trouble broke out, and I was taken prisoner.

Q. You met Big Bear when you were going back? A. Yes.

Q. On the 19th? A. Yes.

Q. You did go back to Coal Lake? A. Yes, to my own house.

Q. Did you see Big Bear's people after you had parted with him, and before you saw Big Bear again? A. No; I saw nobody belonging to Big Bear until after he had come to my house, where I had invited him to come, at Coal Lake. I had gone in from Coal Lake into Frog Lake, and I was on my road back when I met Big Bear.

Q. Had you met Big Bear before that? A. Yes, I had, going into Frog Lake, met him, and slept in his tent all night, but had no conversation about anything of this.

By the Court:

Q. That was before you had heard of it? A. Yes.

By Mr. Robertson:

Q. He did, in response to your invitation, come out to your place to see you afterwards? Yes, on 21st.

Q. How long did he remain there? A. He came to my house before dinner on the 21st and went away on the evening of the 21st.

Q. What occasioned his going away? A. He wanted to go home and hunt; he mentioned to me that evening, and at three o'clock, before a heavy wind, he said he thought he would start home this evening and go around in the bush, and he might get a chance, it was blowing so hard, to kill a moose in the bush.

Q. He was still hunting? A. Yes.

Q. He went off again hunting? A. Yes.

Q. And when did you see him next? A. I saw Big Bear next, on the 7th April.

Q. Where? A. At Frog Lake.

Q. Do you speak Cree? A. Yes.

Q. Fluently? A. Yes, pretty well.

Q. And understand it? A. Yes.

Q. Whereabouts at Frog Lake was Big Bear when you saw him on the 7th April?

A. In the tent; in Lone Man's tent. I sent for him, I sent for Big Bear to come and see me and he came.

Q. Were you in the Lone Man's tent? A. Yes, I was taken prisoner by the Lone Man, at Coal Lake.

Q. Now, what took place there in the presence of the Lone Man, in his tent?

A. Big Bear came in and shook hands with me, and said he was glad to see me and told me not to be afraid—

Mr. Scott objects.

Mr. Robertson.—In the Scott case yesterday, this was admitted—what took place between the prisoner and others, and my learned friend has given evidence of the doings at Frog Lake, and we have had evidence of the part Lone Man was taking in the insurrection. It is not to be confined to a day, if so, why not to a minute? The day has nothing to do with it. It is during the prevalence of these troubles.

Court.—What was done on the 7th would hardly be an answer to what was done on the 2nd.

Mr. Robertson.—No, but I am at liberty to show, generally, what took place between the prisoner and these other prisoners who are proved to have been in insurrection, for the purpose of showing generally, what relation he bore to them, and whether or not he was siding with them or against them throughout the whole of the troubles. I don't think any authority can be cited against that. I have not the authority here, but I am very sure that it comes within the principle. Mr. Osler so laid it down yesterday, otherwise the Crown might pick out a very little circumstance that told against the prisoner and his mouth would be shut to show the whole of his conduct, and show the character of it.

Mr. Scott.—I understand it in this way, that in giving evidence against a prisoner the prosecution is entitled to give evidence of any statements made by him in the nature of admissions as to what his intentions were. It is not proper for the defence to show, in rebuttal of that, that he made a different statement on other occasions.

Court.—That is what I ruled in the Scott case.

Mr. Scott.—The rule is extended in cases of this kind, to give evidence of admissions made by others with whom he was associated.

Mr. Robertson.—My learned friend has not stated it correctly. The evidence is not given as evidence of admissions, but as evidence of conduct, and where a prisoner is charged with treason felony, it is true, as my learned friend says, that the conduct of other persons alleged to be concerned with him in some conspiracy may be given in order that he may be afterwards connected with them. It does not follow at all that that is to be given and the prisoner's mouth is to be closed as to the part he took. The whole statements made by these other persons are only statements which form part of the conduct of all concerned, and the conduct of the prisoner must depend largely upon the influence he exercised upon those other persons, and that influence could only be exercised by the use of his voice. What he said to these other persons who were concerned in the rising for the purpose of affecting their conduct in the rising, is evidence, not as an admission, but because it is part of his conduct in the business. Where there is conspiracy there must be intention, and the intention and the nature of it is the only thing, or the principal thing, we have to judge by, to see whether or not the prisoner was working with, or against those persons. If they are working together by consultation the part he takes in that consultation, or in any other way, in talking with them about what was to be done, is evidence as part of his conduct in the whole matter.

Court.—Your argument would be very good if your date was the 2nd April. Unfortunately, it is the 7th. A man may talk and act treason on the 2nd and on

the 7th he may talk the very opposite way and he may turn around and talk and act as a traitor on the 14th and on the 15th act in a very opposite way.

Mr. Robertson.—Then at 2 o'clock in the afternoon he may talk like a traitor and at half past 2 he may not. It is matter for the jury to consider, but it is evidence.

Court.—No, I don't think it is evidence.

Mr. Robertson.—Of course, I bow to your Honor's ruling. Does your Honor mean to say then that I am not at liberty to show that the prisoner endeavored to prevent the Indians from doing these things, by word of mouth, by speaking to them?

Court.—Doing what things? Committing the murder of the 2nd?

Mr. Robertson.—Committing any of these things with which he is charged, and does your Honor mean to rule that I am not to be allowed to show that he tried, 7th April, to prevent the Indians doing things?

Court.—Perhaps it would be as well that I should waive the rule and allow it to be asked. I think if you want to put it after my holding it is not evidence, you may put it.

Mr. Robertson.—If you give me permission I will do it.

Court.—Put your question.

By Mr. Robertson:

Q. You said you met Big Bear on the 7th April, at Frog Lake? A. Yes.

Q. You saw him in Lone Man's tent and Lone Man was present? A. Yes, Lone Man was there.

Q. What did he say in presence of Lone Man as to what trouble was going on? A. Well, he came into the tent and shook hands with me and said he was glad to see me, and told me not to be afraid, if I wanted to go over and stop in his tent I might go over or I can go and stop in another tent if I liked, if I did not feel comfortable where I was, and he said this thing that has happened here was not my idea; it was not my fault that it occurred; and we had some more talk there about how things were going on there, and nothing really relating to this business here to-day.

Q. Did he say anything about his young men? A. No, I don't recollect his saying anything about his men then.

Q. Were you present at any council of the Indians at which Big Bear was present? A. Yes.

Q. During these troubles? A. Yes, I was present at the most of the councils.

Mr. Scott.—Are you going on with that right straight through?

Mr. Robertson.—If His Honor allows me.

Court.—Go on.

By Mr. Robertson:

Q. At those councils, what part did Big Bear take?

Mr. Scott.—The jury can only take what part he took by what he said or what he did, and even that is not evidence.

A. I don't suppose anybody could think he took any part at all, as he never said anything.

Q. He took no part at all in the councils? A. No.

Q. Who were the men that took any leading part in the councils? A. Wandering Spirit, Big Bear's son, Imesis, and Louison Mongrain and another old chief, and Big Bear sometimes said a word or two; he very seldom spoke.

Q. Do you recollect the arrival of a letter from Norbert Delorme? A. Yes, I do.

Q. Were you present at any council at which that was discussed? A. Yes, I was present when the letter was read.

Q. Were you present at any council when the proposition to go down to Pound-maker was discussed? A. There was no council as to his going down, but just a general idea through the camp that the people wanted to go.

Q. Did you hear any conversation or anything said by Big Bear to any number of Indians, perhaps not a council, but any number of them on the subject of going down? A. I heard him demur against going there one day, he did not want to go.

Q. Well, when you say he did not want to go, what did he say? A. He wanted to go another direction altogether, he did not want to go towards Battleford, he wanted to pitch out in another direction, out to Turtle or Moose Lake.

Q. Did he use any argument to induce them to agree with him? A. No, I never heard arguments used, I know he tried to get them not to go.

Q. You know he tried to get them not to go? A. Yes.

Q. Were you at Fort Pitt 17th April? A. No, I was not. I was there the 14th and 15th.

Q. Were you at Frog Lake before you went there? A. Yes, I was there for a few days before I went there, from the 5th to the 13th.

Q. When the Indians left Frog Lake to go to Fort Pitt? A. Yes, I was there.

Q. Who led the way to Fort Pitt? A. I don't know who led the way. I know a lot of the Indians went down to Fort Pitt that morning.

Q. And when did you go down? A. I was about the last to start out of the camp.

Q. Who went with you? A. Well, I was driving a cart for the Lone Man.

Q. Where was Big Bear? A. I saw Big Bear, he was away at the back of the caravan, and that is where I saw him.

Q. He went down to Fort Pitt practically? A. Yes.

Q. Among the last to go? A. I don't know, but I was about as far back as I could get, and he was there.

Q. He was late in the day anyway? A. Yes.

Q. How did it happen that you went down? A. I was told I had better go down.

Q. Who sent for you. A. Big Bear.

Q. For what purpose? A. Well, if there was any letters or anything to be written to the people in the fort, I, understanding the Cree language and that sort of thing, would be able to understand what they said and write letters for them.

Q. What did he want to write letters for? A. I don't know that it was him wanted to write letters, it was the whole crowd of them.

Q. What did he want you with him for? A. I don't know. I did not ask him.

Q. Why was he going down, and why were you going with him? A. He thought if I went down there and wrote letters, and that sort of thing, I might be able to get the people to come out of the fort peaceably and prevent any bloodshed that might have been committed there.

Q. That is what you were going down for? A. Yes. I don't know what he was going for.

Q. Were you there at Fort Pitt when the pillaging took place? A. I was not at Fort Pitt, I was on top of the hill.

Q. You saw it? A. Yes.

Q. While the pillaging was going on? A. Yes.

Q. Did you see Big Bear while the pillaging was going on? A. Yes, I saw him during the whole time when the pillaging was going on.

Q. Where was he? A. Up on top of the hill along with me.

Q. Did he take any part in the pillaging then? A. No, he did not take any part in the pillaging then.

Q. Were you at Frenchman's Butte on 28th May? A. No, I was not. I was there in the morning.

Q. On the morning of the 28th? A. Yes.

Q. Early? A. About sunrise.

Q. Were you in this camp that has been spoken of above the rifle pits? A. Yes.

Q. Did you see Big Bear that morning? A. Yes, early that morning.

Q. What was he doing? A. Telling the people to get out as quick as ever they could, to get away.

Q. What did he do himself? A. I don't know. He seemed anxious to get away too.

Q. This was early in the morning? A. Yes.

Q. You did go away? A. Yes, I got away.

Q. When did you see Big Bear next? The next time I saw him was at Prince Albert, in the cells.

Mr. Scott.—Do you want to know what he said there?

By Mr. Robertson :

Q. How did these leading chiefs in his band treat Big Bear while during the time you were a prisoner there? A. They treated him with contempt altogether.

Q. Had he any control over them? A. I don't think he had.

Mr. Scott.—I must object to this piece of evidence. It is altogether irregular, this sort of examination. I don't think I ever went to that length on a cross-examination.

Court.—This unfortunate man is an Indian and I have allowed an unreasonable stretch now, simply because he is an Indian, and I shall have to tell the jury why I have done so.

By Mr. Scott :

Q. You seem to think that Big Bear had not very much influence in his own camp? A. I don't think he had.

Q. When did you discover that, after you were taken prisoner or before? A. After I was taken prisoner.

Q. Before that? A. I always thought and looked upon him as a chief.

Q. You think also he was desirous that no blood should be spilled? A. Yes.

Q. What effect do you think his intentions in that respect had upon the safety of the prisoners? A. I don't know that it had much, but I know that his intention towards us was good.

Q. You think it was through his influence that——? A. No, I think I would have been killed if I had not been in the Hudson Bay Company's service.

Q. Then you think the reason the lives of the prisoners were saved was the fact of their nearly all being in the Hudson Bay Company's service? A. Yes, being under the protection of the Hudson Bay Company at the time they were taken prisoners.

Q. You think, I suppose, if the police had been taken prisoners they would have been killed? A. No, I don't think they would. I think if they had come out of the fort with Mr. Maclean, they would have been all alive to-day.

Q. By whose influence would that have been? A. The influence the Hudson Bay Company has had on all Indians.

Q. If that is the case, how is it that the influence of the Hudson Bay office there was not sufficient to keep Big Bear and Poundmaker on their reserves? A. I don't know.

Q. They had influence enough to prevent these men from killing any whites in that neighborhood, not only their own officers, but any whites in that neighborhood; but they had not influence sufficient to keep them from committing other depredations, is that what you mean? A. After all the Government people in the country were killed, Mr. Maclean used his best influence to save the rest of the people that were there. There were no Government men to use their influence at the time.

Q. Then the object of the outbreak in the first place was to kill the Government men? A. I don't know anything about that.

Q. What do you think about it? A. It looks like that, because there was nobody else killed but those men.

Q. At Frenchman's Butte, Big Bear, you think, wanted the men to get away? A. Yes, that morning.

Q. Was he frightened? A. He seemed to be.

Q. And you think that was the reason he wanted to get away? A. Yes.

By Mr. Robertson :

Q. Do you know Stanley Simpson, the witness here? A. Yes.

Q. Have you had any conversation on the subject of Big Bear's trial with him? A. Yes, I had a little.

Q. What did he say to you? A. He seemed—

Q. What did he say? A. I told him that I had been called on the defence, and he thought it was strange, very strange, any white man should get on the defence of an Indian. His idea was that Indians should have been hung.

WILLIAM B. CAMERON, sworn :

Examined by Mr. Robertson :

Q. Mr. Cameron, were you present at any time at Frog Lake at a council of the Indians at which Big Bear was present? A. Yes, I was at several councils at which he was present.

Q. Tell us on what occasions? A. I was present at Frog Lake, in the first place, at the time of the massacre.

Q. Well, were you present at any council that was held soon after that? A. Yes, I was.

Q. Was Big Bear there? A. Yes.

Q. What was he trying to do or doing? A. Well, the first council that I was at after the massacre at Frog Lake was one in which Wandering Spirit did all the speaking; he was examining the prisoners, and it was a day or two after the murders had been committed, and he was getting the opinions of the prisoners on the situation of things, and he asked us who we would rather side with, with the tribe that he belonged to or with the white people.

Q. Well, what did Big Bear do? A. He did nothing at that council.

Q. Did he say anything at all? A. No.

Q. Well did you hear him say anything to Wandering Spirit on the subject of what had taken place at any time? A. Not about that council. I heard him say one afternoon when all his band were dancing at what they call a grass dance, and I heard Big Bear speaking, and it is customary in case of their having a dance of that kind for different warriors and headmen to proclaim what they have done, their big deeds, and I never cared to hear what any of these other fellows said, because I knew they were red-handed murderers a great many of them; but when I heard Big Bear speaking I went out of the tent, and I went up and laid down on the grass at a short distance from where they were dancing, Wandering Spirit and two more of Big Bear's councillors and some of the other men who were sitting in a half-circle inside of the tent, and I was lying opposite on the grass, and Big Bear standing in the centre, and a lot of young men were there too, and he was making a speech; and I don't say that I understand the Cree, but still I have a general idea, a pretty good idea of the Cree language—I can't say that I thoroughly understand it—and I understood him to say, the words as near as I can tell that he used, are these. He said: Long ago I used to be recognized by all you Indians as a chief, and he says there was not a bigger chief among you than I was, and all these southern Indians knew it, the Plains and Pitagans, and the Sioux and the Blackfeet, and all the rest of those southern Indians knew it, and he says when I said a thing at that time there was some attention paid to it, and it was acted upon, but he said, now I say one thing and you do another; and he said in front of Wandering Spirit, and I was sitting right opposite him, watching him, because the speech interested me on account of knowing the circumstances, and he sat with his head down; and I saw Big Bear also on the day of the Frog Lake massacre, and I saw him the evening previous in Quinn's house at the time Mr. Pritchard spoke of, and I did not hear him saying anything there. His son also was there—Mr. Imesis. Next morning there was an Indian woke me, and I came down stairs. I was sleeping in the company's house next the company's store. I was in the employ of the company there, and I went down stairs and Imesis opened the door of the house and came in, followed by twenty of the Big Bear band, and he came up to me and said: Have you got any ammunition? and I said: Yes, there is a little there in the store. Well, he says, I want you to give it to us. This was Imesis, and I said: It was against my orders to give you ammunition in this way. Well, he says, you may as well give it to us, because we will take it any way if you don't choose to give it to us; and I went into the store and opened the store, and these men followed me—

inside, and Big Bear entered a few minutes afterwards; and they were asking for things after they got what little ammunition there was there; and Big Bear came in and crowded his way through the young men there, and he says: Now, I don't want you to touch anything here of your own accord; if you want anything ask for it, he says, don't you touch anything without asking for it; and I afterwards saw him at the church. I was present at the Roman Catholic Church, and I saw him there, and the next time I saw him was just about five minutes before the shooting commenced. I was passing the house with an Indian going to the store. I was coming from Pritchard's place, and Big Bear was standing inside of the door talking to Mrs. Simpson, and I walked in the store, and was not in the store five minutes when the first shot was fired, and I waited for a few seconds, and it was followed by another, and then there were several shots fired in succession, and I went out of the store and saw Big Bear running up the street, and he called out: Stop, stop, two or three times, running up towards where Quinn was lying. I saw Quinn lying on the side of the hill, and I did not hear anything of him then till afterwards. I don't recollect anything with regard to the council at which Mr. Maclean was present when Wandering Spirit was speaking against the white prisoners in the camp, and agitating, as he often did, as to the killing of the white prisoners; and Big Bear got up and seemed really as if he pitied all the prisoners; and he got up and spoke, and he says: I pity all these white people that we saved; he says: I don't wish harm should come to one of them; and he said: Instead of trying to do harm to them you should be giving them back some of the things you have plundered from them. And another thing which goes to show the influence that Big Bear held in the camp is that, at one time, I heard Mr. Halpin complain that some of the Indians had complained—Halpin complained to Big Bear.

Mr. Scott.—I object to this.

By the Court:

Q. What did Big Bear do? A. Halpin complained some things had been stolen from him by some of the Indians, and Big Bear said he had a blanket stolen out of his tent; and he says, When they would steal from me, the man they call their chief, he says, I can't be responsible for what they do to other people.

Q. He complained that his blanket had been stolen? A. Yes.

By Mr. Robertson:

Q. Were you at Frenchman's Butte? A. Yes, I was there.

Q. Did you see Big Bear that day? A. Yes.

Q. Where was he? A. I was not there the day of the fight. I was there the evening before? I saw him the evening before.

Q. What was he doing the evening before? A. We were camped at a short distance from the main crowd of Indians, and he came in through the camp—just passed through, and I think he spoke to some of the Indians, but he was not close to where I was. I saw him there.

Q. That was the night before the fight? A. Yes.

Q. Then did you see him at Fort Pitt? No, I was not at Fort Pitt.

Q. Do you know anything about this letter that came to Pritchard? A. I heard the letter read by Mr. Maclean.

Q. Do you know whether Big Bear wanted to go down to Poundmaker or not? Was he for it or against it? A. I could not say, I am sure.

By Mr. Scott:

Q. It was when you heard Big Bear speaking at this council meeting that you went over and laid down on the grass? A. Yes.

Q. You did not hear the tenor of the conversation that had taken place before you got up? A. No.

Q. You don't know what they were proposing to do, or what they were saying they had done? A. No.

Q. You merely heard him say that—that he was objecting to the council not taking his advice upon some particular question, was that it? A. No.

Q. Give us the exact words in Cree? A. I don't profess to be a Cree scholar, but I will do it as near as I can. He says: "I was a chief long ago, all you Saskatchewan Indians there was none of you that were above me. I was a bigger chief than any of you. All those tribes—the Piegiens and Blackfeet and Sarcees, and the Sioux—all those Indians know I was a chief above you all. At that time whenever I had anything to say to you, why you did it right away, but just now anything that I say to you what is right, why you do the thing quite the contrary," and he pointed at Wandering Spirit and a number of them, the headmen.

Q. You left immediately after he concluded that? A. Yes, I followed him off.

Q. And did not wait to hear what the others were saying, or what the conversation was about? A. No, I did not. I had no desire to listen to them. I had heard enough of bloodshed and murder already.

Q. On the morning of the Frog Lake massacre you say you were in the store when Imesis and another Indian came in? A. No, I was in the house when Imesis came in.

Q. And he asked you for some powder and shot? A. Yes.

Q. And you went over to the store and got it? A. Yes.

Q. Because he had threatened? A. He threatened me there.

Q. That if you did not get it, he would go and take it? A. Yes.

Q. And you went over and got it? A. Yes.

Q. Why did you go over to get it? A. Because I would rather open the store to give it to them than have them break it open.

Q. You thought they were going to take it? A. Certainly, I knew they were going to take it.

Q. When you opened the store, they all crowded in? A. Yes.

Q. Did they commence taking things before Big Bear came in? A. Yes, a few of them did reach over the counter and help themselves.

Q. And took things without asking for them? A. Yes.

Q. And the prisoner came in and ordered them not to take anything without asking for it? A. Yes.

Q. And stated that if they wanted anything they saw, they were to ask for it? A. A good many of them had accounts.

Q. What did he say? if you see anything you want, ask for it, but don't take it? A. He said, if you want anything, ask him for it, and he said, don't take it of your own accord.

Q. Did the Indians take anything after that? A. They did.

Q. When he was there? A. No, I don't think they did. He was not there—not two minutes altogether.

Q. You say he on several occasions spoke in favor of the prisoners? A. Yes.

Q. That is, he was averse to killing them, as you understood? A. Yes.

Mr. Robertson.—I have a couple of other witnesses much to the same effect, but I think, perhaps, your Honors and the jury are tired of them.

Court.—I am not tired.

Mr. Robertson.—I think it is clearly established—I think it is hardly necessary.

Court.—Are you done?

Mr. Robertson.—Yes, I think that is the defence.

STANLEY SIMPSON recalled:—

By Mr. Scott: :

Q. Did you hear what Mr. Halpin said a few moments ago as to a statement made by you? A. Yes.

Q. Is that true? A. No.

By Mr. Robertson:

Q. What was it you did say to Mr. Halpin? A. I told him that there were a great many Indians I would like to see hung, and that there were a great many that I would not like to see hung.

Q. And you told him Big Bear was one of those you would like to see hung? A. No; if you ask Mr. Cameron, or any of them, I said to-day I would not like to see the old man hung at all.

Q. You said that to-day? A. Yes, and I said it before.

Q. What did you say on the occasion Mr. Halpin speaks of? A. That is all that I said.

Q. You remonstrated with him for being a witness for the defence? A. No, I did not remonstrate with him. I said—I asked him if he was a witness for the defence, and he said yes, and I said, it is a strange thing, after the trouble that you had, that you would be on the defence. That is what I said to him.

ADDRESS OF COUNSEL FOR DEFENCE.

Mr. Robertson.—May it please your Honors, gentlemen of the jury: After the somewhat long, and I am afraid somewhat fatiguing session that you have had, a session which I regret very much has been so long, and which I am sure you will believe me when I do assure you I have not made longer than I felt bound to do in discharge of the duty cast upon me not as the hired advocate of this man, for he has nothing with which to hire an advocate, but because the Crown, the Government, in the interest of simple public justice, has brought me here to try to see that he is not unjustly condemned. In the discharge of that duty and only in that, I have contributed my share towards keeping you here. I am sure though that none of you will regret any of the time that has been taken up in the taking evidence that has been presented to you by the defence. I am very sure that the men I see in that box before me are there conscientiously desiring upon the solemn oath that they have taken to do no more than simple justice and to mete out to this poor old man, tottering now almost on the brink of the grave, fair British justice, and the same clemency, and the same merciful consideration of his conduct that you would mete out to any white man. Gentlemen, I feel that I need hardly say a word as to the difference between a white man and an Indian to you, except in so far as this, that the conduct of an Indian cannot be judged or estimated in exactly the same manner as the conduct of a white man, and Indian ideas are not the same as ours, our ideas. The white man is a man accustomed to live under civilized forms of government. He knows what a large community it is, governed by fixed laws and administered by courts and judges above suspicion, dealing even justice to all that come before them, he knows what it is to maintain law and order; he knows that the maintenance of law and order is one great safeguard that he and all his fellow-subjects had against wrong, against harm to himself, to his own life, his own liberty, his own freedom, his own chances of office. An Indian looks very differently at society, while a white man looks at society at large, a large community as one community, while he knows that he can move from one place to another in that community, that in the whole of his country, however large, he may find a home. The Indian looks to his own little band; apart from them he can do nothing; apart from them he cannot live; he must remain with his band; he cannot get away from them; he is not free if he sees mischief being done, he is not free to say, I will move away from here, I will go among other people who won't do these things; he cannot do that, and what else has my learned friend, Mr. Scott, to rest upon here in making a case against Big Bear, except that he was with his band? The Crown has not only failed to show affirmatively that the prisoner actually committed one of the overt acts charged in this indictment. I think it has been conclusively proved to you as to each one of those charges that the prisoner did not commit them, those overt acts. A few words let me say first, on the general evidence, as to the prisoner's character and his position in his tribe. You have one unbroken stream of testimony that that old man has been a good Indian.

ever since he has been heard of by any of these witnesses, and old Mr. Simpson, a man whom I am very sure you can rely upon with the utmost confidence, tells you that he has known him for forty years, that after knowing him for forty years, after being a prisoner in his camp through all these troubles, and seeing all that he did, he considers him to-day a good Indian. What weight do you attach to that? You have the evidence of Mr. Maclean, who, after knowing that man by reputation for many years and knowing him for six or eight months, personally dealing with him, and also after being through all these weary months of suffering and hardship with his family, his wife, his daughters, his little children, during those weary sixty-two days, being with that man's band all that time, seeing his conduct throughout, he says to-day, I consider that man a good Indian. Gentlemen, I ask you to say, and I think that you will think that the judgment of Mr. Simpson and Mr. Maclean and these other witnesses, because all the others tell us the same thing, their judgment, the judgment of them who were witnesses of the man's conduct from the first to the last is a better judgment and a judgment safer even for you to follow than your own judgment could be upon the isolated facts picked out and proved. I think you will attach great weight to that evidence.

Now, my learned friend, Mr. Scott, in his opening address, I think improperly, no doubt as he believed in the discharge of his duty—I will ask your Honor to direct the jury, and I think, your Honor, I am right in saying that my learned friend should not have referred the jury to facts or circumstances, or anything outside of the evidence that was put in the box before them. He told you that you knew all these things, and that it was not necessary to go into them, and he spoke as if you were at liberty and would be justified in allowing the impressions you have received, from public reports and rumors, to influence your judgment. Now, that is not the truth; it is incorrect. Allow me here to say that I, in the discharge of the duty that I have had to perform here, have received the greatest kindness, assistance and consideration from my learned friend. I have no fault to find with him, far from that, I have received the greatest courtesy; we are only both working together to try and help you to decide, mercifully and truthfully and rightly according to your oaths. I acknowledge that frankly and freely, but it is my duty—my learned friend taking a certain course, which he believes in his judgment to be correct—it is my duty, if I don't think it right, to point it out. I did it in no spirit of unfriendliness, but simply in the discharge of the duty that I owe to this prisoner, and I say, with the utmost confidence, that my learned friend was wrong in conveying, whether he intended to convey it or not, any idea that you were justified in acting upon any such impressions derived from anything but the evidence in the box. You must know, as I know, the outrageous reports we heard about this old man Big Bear, all the sins of his tribe, and a great many sins they never committed, were laid upon his shoulders, in the public print. We know that many of those things are now publicly—

Court.—Pardon me for interrupting you, did Mr. Scott mention Big Bear?

Mr. Robertson.—He did. He did not mention the papers, but he said it was well known. He particularly referred to the massacre at Frog Lake, that it was well known.

Court.—Go on.

Mr. Robertson.—I would have, if your Honor had not interrupted.

Court.—You referred to me.

Mr. Robertson.—I was saying, gentlemen, you should set aside altogether all these impressions. You know that what are now publicly known to be falsehoods, were published about this man and his band then, and any other impression that you may have, may be equally false. After all, they are only general impressions, but what you are to go upon, is the simple evidence given in that box before you. You have nothing to do with anything outside of that, and if you had had your mind prejudiced by any of these former impressions, you would not have been fit, in the eye of the law, to sit on the jury. I did not suppose you were men to be influenced in that way, but I ask you now to cast aside all the impressions, and think only of

the evidence given. I have drawn your attention to the general character of the evidence, the general evidence of character, evidence of men who saw the conduct of this old man through the whole of that troublesome time, and I ask you now just to direct your attention for a few minutes to the four different overt acts that are charged.

Now, upon these facts, or upon some of them, my learned friend must ask for a conviction. He cannot ask for a conviction upon anything but one or more of the overt acts charged in this indictment. The first of those charges is that, at Frog Lake, on the 2nd April, he conspired to levy war, &c. Now, let us take that; and what is the evidence as to that? That was the day of the massacre, 2nd April. I think I may say the evidence as to that is clear, and without any circumstance contradicting it, that the Indians came in on the 1st April. There is one circumstance before that, on the 19th March, Mr. Halpin met Big Bear out on the road and informed him that there was trouble at Batoche, that Riel had stopped the mails. How did that affect Big Bear? He was surprised, he expressed surprise. I wanted to prove by Mr. Halpin that he was surprised and that he showed surprise. My learned friends would not allow me to do it. Well, he expressed surprise anyway, and there has not been a tittle of evidence here to show that he had any intention whatever, any communication whatever with Riel from beginning to end of the whole trouble; but Mr. Halpin told him, and that is where he got the information that this trouble had arisen. Now, that is an important fact: that is why they knew it. What does he do? Does he go off? Does he rise too? No, he goes off again to his hunting; and not until a fortnight or more afterwards, is anything done even by his band. Then, on the 1st April, they come in, and he goes to the Indian agent—this son of his, Imesis, being with him—and Imesis tells the Indian agent that they know of this trouble; and Big Bear at once says that he assures the Government, he wishes to assure the Government, and to show the Government that he is going to be loyal. Now, was that sincere? A good Indian for forty years, the friend of the white man for forty years, always kind and good to the white people, good to them all, and during all that weary time, when many of his band want to kill them, was he sincere when he said, I am going to be loyal, and I mean to show the Government I am loyal? Then, the next morning, what does he do? Early in the morning, the Indians, no doubt, have been getting excited. I think Mr. Cameron said that it was on the morning of the massacre that the Indians were coming and threatening to take goods from the Hudson Bay Co.'s store. He tells us the Indians were going to pillage the Hudson Bay store. Big Bear hears of it, and comes in, pushes his way through, and tells them to take nothing of their own accord; if they want anything, to ask for it, but not to take anything. What does he do next? They don't take anything, and he goes away. He then goes over to Mrs. Simpson's house—what for? To warn her that he is alarmed, that he cannot be every place to watch his young men. He is afraid; he thinks there is going to be trouble, and he wants to get her to a place of safety if he can. Was that the act of a man that was ringleader in the rebellion?

Then, Mrs. Simpson says he was friendly. She gave him something to eat while he was there, and while there a shot was fired, which they heard. What does he do then? He rushes out of door, running up the street, screaming: Stop, stop! Was that the act of a man that was going into rebellion? My learned friends will try and say—and the only chance they have of convicting this man is to show—that, though he did not want to kill anybody, he wanted to fight against the Government. Why, gentlemen, if he wanted to fight against the Government, how could he do it without killing somebody? Isn't it preposterous? How was he to fight against the Government if he was not to kill somebody? If he wanted to fight effectively, why shouldn't he kill all the white people he came across? He did not want to fight against the Government. He did not want to rebel at all. He wanted to control his Indians; but Imesis, Little Poplar, Wandering Spirit, and Louison Mongrain, these were the men that controlled those young men, and that old man was no more than a feather in the blast before their influence. He was powerless, utterly powerless. The massacre took place in spite of him. It is all done almost in the flash of an eye, but he tried to stop it. That is the first charge; that is the

evidence upon the first charge, the massacre at Frog Lake, conspiring at Frog Lake. Where is the evidence of conspiring? Where is there a tittle of evidence that he was disloyal at that time? My learned friend has tried to make something out of the fact that he had been grumbling. Poor man, an Indian must not dare to grumble. If an Indian dares to grumble at the paltry rations that are meted out to him, while he is suffering from hunger and cold, in his old age, it is to be assumed that he was willing to rebel against the Government? Gentlemen, would you listen for half a second to such a suggestion as against a white man? Then the next charge is that at Fort Pitt, he did this. Now, what is the evidence about Fort Pitt? The Indians start off from Frog Lake to go to Fort Pitt; who leads them? Not Big Bear, it is the old story, these same men, Wandering Spirit, Imesis, and the others, they are the men that led the Indians off to pillage the fort, Fort Pitt. Poor old Big Bear hangs back, and does not know what to do, and at last his anxiety is, I will go at all events and try to save the lives of the people that are in the fort. He was powerless, and he knew it, he was powerless to prevent those Indians from going out to pillage that fort, but he might help perhaps, not by his influence with the Indians but by friendly dealing with the whites—he might perhaps induce them to go off quietly, so that there would not be a fight, and so have saved their lives. My learned friend will say of course the construction to be put on that is, oh, he wanted them to go away, so that he would get the fort more easily. Very well, it might have been one or the other, but do you think so? If he wanted to levy war against the Queen, if he wanted to fight the troops, if he wanted to kill the police, why didn't he take the chance when he had 300 or 400 Indians around a little band of twenty-five or thirty? Is that the conduct of the man that wants to fight the police and kill the police? No, gentlemen, it is the conduct of the man that knows he cannot prevent the pillaging of that fort, but hopes he may manage to get and save the lives of those white people; he follows the Indians down to Fort Pitt with that object. What took place there? Who is in command still? The same lot that sends for Mr. Maclean, the same lot, the chiefs want him, he comes out and meets the chiefs; who are the chiefs that do the talking? Who are the chiefs that threaten him? Not Big Bear, it is the other chiefs that shut up his mouth, that do the whole thing, that shut up his mouth when he is trying to reason with the Indians and get them back to their reserves—not Big Bear. It is Wandering Spirit and the other one I forget which of them—those are the men that tap him on the shoulder, look here you have said enough, stop, we don't want to hear anything more than this. Old Big Bear takes no part in that, but Big Bear does take part in trying to arrange to save the police and particularly to save his friend Sergeant Martin. He sends a messenger to him and he sends a message, at least a thing that purports to come from Big Bear, we don't know whether it really came from Big Bear or not—it does not matter very much—a message did come signed "Big Bear," trying to persuade them to get away so as to save their lives. The pillaging took place. Does Big Bear pillage? No, no pillaging by Big Bear, no goods even afterwards found in his possession, except as Mr. Maclean tells us one of them did give him some tea that they had taken from the fort. Well, gentlemen, it may be that a poor unsophisticated Indian, an old man hungry and cold, probably ought to have refused to take a cup of tea because it had been stolen from the Hudson Bay Company, but I don't think my learned friend will seriously contend or ask you to say that he was guilty of a desire to levy war against the Queen because he accepted a cup of tea that another man had stolen. That is the third of the overt acts charged.

Then, the fourth is that at Frenchman's Butte. Now, what are the facts as to that? At Frenchman's Butte not one soul saw Big Bear on the battlefield or any place near the pits when the fight was going on, but where was he? He was three or four miles according to the different witnesses, and the different statements, back from where that fight was going on, and it was not in a general retreat that he was back there. You recollect that one of the witnesses I asked particularly, and he told us distinctly that the fighting men were at the front and fighting when he saw Big Bear away back three or four miles from the front. Mr. Maclean tells us that he was back there with him, with himself, he was running away and Big Bear was run-

ning away. Big Bear did not want to fight, and he did not fight, he was not even with the men that were fighting. Stanley Simpson himself tells us, that when he went back, when he ran back he found Big Bear in the camp with Mr. Maclean. Now, I want to say a word about Mr. Stanley Simpson's evidence. He told us first that when he got back into that camp he found Big Bear there, Big Bear was there when he got into the camp; he said he tried afterwards to prejudice you against the poor old man by telling you that he saw him ride into the camp after he came there, first he said he found him there, when he got there, and that was the truth. Mr. Maclean corroborates that. Mr. Maclean saw Stanley Simpson come in and Mr. Maclean told him that Big Bear was there in the camp when Stanley Simpson arrived, but Stanley Simpson, gentlemen, has suffered a great deal, and I am sorry for it, as sorry as anyone can be, no one pities more than I do, the poor people that suffered as they did suffer through all that trouble. The suffering that Mr. Stanley Simpson has endured has prejudiced him so much against these Indians that he is prepared to go as far as he can to convict any Indian, and particularly the poor old Big Bear, because he is looked upon as sort of chief of the band, that is one evidence of it, he told us the truth first, and then he afterwards tries to pervert it and make it appear that poor old Big Bear was out at the front, but was coming back. Then, I won't go so far as to say that Stanley Simpson is telling an untruth about it. I don't think that, but I do think that his prejudice is that way, and perhaps insensibly, but none the less cogently, it influences the view he takes, and as you know it can influence very easily, and it very often does, his memory of things, and when he is not quite certain exactly which way the thing was, he is sure to put it the wrong way, that is, the way which will tell against the prisoner.

Then, the only evidence at all against the prisoner is that of Stanley Simpson; he states what he thinks he heard him say on that occasion in that camp. Now, Big Bear on that morning and the night before that told them all to run away, his conduct throughout that shows a desire to avoid the shedding of blood, and it showed it all before that time, it showed it all after that time. Remember that; but Mr. Simpson says Big Bear had run away, he was three or four miles back. Some one tells him there were eighteen or twenty of the troops killed, and he pretends to tell us Big Bear made a bloodthirsty speech, it was not a short speech, gentlemen, it was not a speech that would be said so slowly, it was a speech that was said in the excitement and quickly, and Mr. Stanley Simpson asks you to believe after what he has shown us of what he knows of Cree in that box—he asks you to believe that he is able to swear that that old man used that language. Gentlemen, are you going to convict that old man in the face of all his previous record, in the face of his whole record throughout this trouble, are you going to convict him of any attempt to levy war against the Queen upon a piece of guess-work like that, influenced by a strong animus, an animus shown by what he said to Mr. Halpin, when he says that it is a strange thing that any white man should be called as a witness for the defence of an Indian. Gentlemen, strange for a white man to come and tell the truth!

Mr. Scott.—I must object to my learned friend making use of that statement. It was never given by the witness in the box. What he did say was that it was a strange thing that he should be on the defence.

(Stenographer here refers to his notes, when Mr. Scott's version is corroborated.)

Mr. Robertson continues.—Gentlemen, that gives you the key. Stanley Simpson has been through it. His feeling is so strong, he tells you so himself, because of what he has gone through, that he wants to see that man convicted, and he would have had Mr. Halpin hold back from telling you the truth. That is the animus of Stanley Simpson, and "it is a strange thing anybody who has suffered what we have suffered should be willing to say a word to give the man the benefit of the truth." Gentlemen, I ask you to disregard altogether the statement of Mr. Stanley Simpson as to that bloodthirsty speech he attributes to Big Bear, and I ask you to do so, because it is wholly inconsistent with the whole of the prisoner's conduct throughout the whole of this business. It is wholly inconsistent with the character he has always borne, and it is impossible, it would be most unjust and dangerous to convict any man

contrary to those presumptions, upon so uncertain a piece of evidence as that of the man who says that he heard this speech made in a language of which he knows no more than appeared to you in that box.

Mr. Cameron understands the Cree, and he proved to you—he does not pretend to know much, but he could tell you the Cree words that he heard the prisoner speak when he heard him speak, and those, with the innumerable other little circumstances over which I am not going now, but which I am sure are fresh in your minds, all show that the old man was helpless in his own band, that what little influence he had, he used to save the lives of the whites and keep these people quiet, that he avoided, himself, every act of wrong-doing, that he tried to prevent others from committing those acts, and I think you will say in your verdict, that throughout they show that he was a loyal and an innocent man.

ADDRESS OF THE CROWN COUNSEL.

Mr. Scott.—May it please your Honors, gentlemen of the jury—In my opening remarks in this case I gave you a short summary of the evidence that would be laid before you in proof of the charges upon which this prisoner is being tried. I stated that the principal part of that case would be showing the fact that war was actually levied by the prisoner or by those with whom he was associated at that time in order to afford you the proof that it was his intention or it was the intention of those with whom he was associated to levy war. Notwithstanding my learned friend's protest to the contrary, I submit the charges you have heard read have been fully and sufficiently proved.

In the first place, as I stated, there were four charges. The first of those was connected with the massacre and the outbreak at Frog Lake. I also stated to you that it would be probably shown to you in the evidence—I had a good idea of what evidence would be given for the defence—that it would be probably shown to you during the course of the evidence that the prisoner may have been instrumental in saving the lives of the prisoners that fell into the hands of those with whom he was associated—if not in his own hands, into the hands of those he was in concert with. Now, gentlemen, you have heard an account of what occurred on the 2nd April, or rather you have heard that on the 1st April the prisoner came in with his son Imesis, and spoke to the Indian Department agent at that part of the country, and said that he heard there was trouble but that he was going to remain loyal. Imesis was with him at that time. Imesis apparently assented to the statement made by Big Bear at that time, yet we find that on the 2nd April, the very next day, that, although, perhaps, Big Bear did not assist in killing, and perhaps wanted to prevent it, his son Imesis was one of the worst in the crowd from that time till the end of the rebellion. If Imesis on the 1st April had any intention of committing those depredations, Big Bear, the prisoner, would have known it, and it would have been his duty at that time if he had been loyal, a loyal citizen, as my learned friend tries to make him out to be, he would have given warning the night before to these men, in order that they might be prepared for some defence. My learned friend tries to show, also, that on the 18th March—I think it was on the 18th March, the date Mr. Halpin stated—on the 19th March the prisoner heard from Mr. Halpin that there was trouble at Duck Lake. Now, it is very peculiar that we have not heard in evidence any evidence of trouble occurring at Duck Lake until the 18th March, the day before, and we have heard it was five or six days' travel from the part of the country in which they were in.

Court.—He spoke of the seizure of the mails, and that there was going to be trouble.

Mr. Scott.—Perhaps I am going a little too far. I understood the inception of the rebellion was the 18th March. It makes no material difference. I believe the prisoner did not know until Halpin told him on the 18th March that there was trouble at Duck Lake. It is quite evident from his action on the night of the 1st April they must have heard some intelligence in the meantime from that part of the

country—that there had been trouble. They were all advised at that time what the trouble was, and what the intention in creating that trouble was. My learned friend says there is no evidence of that. Well, I will tell you what evidence there is of it—that after he heard from Halpin, the 18th March, that there was trouble there, he paid no further attention to it; he went on hunting, and he afterwards came back to his camp at Frog Lake and remained there for some days, and then we find on the 1st April that they came in a body to the Indian agent and speak to him about the trouble. If they had not heard anything meantime, how is it that Big Bear, as soon as he returned to the camp, did not come in and tell the Indian agent what Halpin had told him? He must have heard from some other source meantime that there was trouble at Duck Lake.

Now, on the 2nd April, we find him coming in with his band again to Frog Lake settlement, and we find these outrages committed. The first thing we hear is the taking possession, or the threat of one of the Indians to take possession, of the Hudson Bay store, unless he, the clerk, Cameron, went in there and got the goods. Cameron says himself he believed they would have broken into the store if he had not opened it. They went into the store taking things. Now, the contention throughout of the defence in this case is that the prisoner was wholly without influence in his own camp, and that his influence was for good throughout, and to show you that that influence was not such as my learned friend represents it, but that he had a great deal of influence in his own camp at that time and afterwards, I will call your attention to this one first—this one fact, that when he came into the store the other Indians of his band commenced taking goods out without asking permission of Cameron or without asking him for them; the prisoner came in and ordered them not to take goods, but if they wanted anything, if they saw anything they wanted, or wanted anything they saw—I forget which—ask for it, and he would give it to them; that shows the intention on their part that in any event they intended to take what they wanted.

Mr. Robertson.—I don't think Cameron said he would give it to them. He said to ask for it.

Court.—Before they took it?

Mr. Scott.—Not to take anything of their own accord. It turned out during the time the prisoner was there they did not take anything, but they asked for it, and as soon as his back was turned they commenced taking the goods again. Does that show that he was totally without influence in his own band? That during the time he was in there and when he was before them, and they saw he was looking at them, they obeyed his instructions to the letter? My learned friend says it is a very unusual thing for the Crown to reply at all. It may be in some cases, where the case is put fairly before the jury by the counsel for the defence, that it is not a proper thing for the Crown to reply; but I submit, and I am addressing the jury entirely on that account, that the counsel for the defence has not put the case fairly before the jury, that he has strained those points of the evidence which bore in favor of the prisoner and omitted a great number of points in the evidence which bore against the prisoner. These, I will call attention to shortly, and I will not detain you. My learned friend says that the influence of the prisoner throughout was entirely for good. I admit that his influence throughout apparently was to save the lives of the prisoners in his hands. My learned friend says if he did not intend to kill, how could he be expected to levy war, without killing? Well, I have yet to learn that everyone who goes in for the purpose of levying war starts with the intention of killing all the helpless men, women and children that may fall into their hands. I have yet to learn that war cannot be carried on even by the Indians without that course being pursued. There is another reason why he wanted to save the lives of the prisoners. Mr. Halpin, I think it is, shows conclusively that, and Mr. Maclean, by his evidence shows it too. These men who were prisoners in his camp, with the exception of certain half-breeds, were all in connection with the Hudson Bay Company. That is what Mr. Halpin says, that if they had not been connected with the Hudson Bay Company they might not have escaped. He also says that if the police had gone into the camp as prison-

ers of the Indians, through the influence of the Hudson Bay Company they might possibly be preserved as well. Well, gentlemen, I think you all know what an influence the Hudson Bay Company has and ought to have over the Indians in this country. For centuries past they have been the protectors of the Indians for the purpose of cultivating their trade and making a profit out of the trade with the Indians. They have cultivated their respect and esteem, and it has always been the object and intention to cultivate it to the greatest possible extent, and they have succeeded in doing that. Mr. Maclean shows you by the way he gave his evidence to-day he does not want to hurt a hair in the head of any person, but he shows also that friendliness on the part of the prisoner and his band was a friendliness to the Hudson Bay Company alone, and was not extended to the Government. He was forced to admit on cross-examination that he was not on good terms with the Government, although he was on good terms with the Hudson Bay Company, and that Mr. Maclean had considerable influence over him, but he was forced to admit at the same time that the prisoner thought he had a grievance against the Government, that he was continually grumbling, and we have heard from some other witness—I forget who it was now—that the grievance consisted of the fact that he had not a reservation, whether there was any ground for that, we don't know, we have no means of ascertaining at the present time, but it shows he had a grievance, and it shows the motive for taking the course he did in connection with the rebellion.

Mr. Robertson.—My learned friend says now that Mr. Maclean said that the prisoner was continually grumbling against the Government, but Mr. Maclean said that on one occasion he heard him make a complaint.

Mr. Scott.—Perhaps I misstate it. I understood him to say the Indians were always grumbling, and he heard this man grumbling against the Government, but he did not know exactly what for, and we hear another witness stating that it was because he had not been placed upon a reservation.

Now, gentlemen of the jury, I think that throughout this whole case, although there is very strong evidence that the prisoner intended to save and tried to save, to use all his influence to save the lives of the prisoners, there is no evidence given for the defence or throughout the whole case here to show that he resisted the efforts or the conduct of the Indians with whom he was associated in levying war or in pillaging Fort Pitt. It is not necessary to show that he took part in the pillaging himself, or that he actually got any of the goods that were plundered from there, as long as we can show that he was associated with those who did that, and after the act was done he continued to associate with them, and during that time that they committed fresh acts which come within the nature of the charges that are contained against the prisoner in the indictment—then he must be taken to be responsible for those acts to that extent.

Now, did he, at any time, counsel or advise the continuance of the outrages that he is charged with? My learned friend has tried to throw some doubt upon the evidence of young Simpson, because he thinks he has a bias against the prisoner. Is that good reason, because he has a bias against the prisoner and the Indians generally? Who kept him in confinement for such a long time, who at one time was in deadly peril of his life, and the hardships he suffered while a prisoner have brought him nearly to death's door since? Is there any reason why he should not have a bias? But is that any reason why he should not come into the box and tell truthfully all he knew about the circumstances during the time he was imprisoned with them? I think my learned friend endeavored to convey to you the impression that that was the only evidence of any intention on the part of Big Bear to act against the Government in any way; but my learned friend has forgotten the evidence of a certain man named Pritchard. Pritchard's evidence is not attacked in any way. My learned friend has not said anything about it. You will remember what Pritchard said as to what Big Bear said he had done with regard to a certain other Indian chief of his acquaintance, that he had written up to him or was about to write to him to tell him to come at once to join his band, and if he didn't, better get a fast horse and leave the country, and then asked

Montour to write a letter to some friend of his at Lac la Biche, and Montour asked Big Bear, shall I say a certain thing, shall I write to him and tell him to come, the Indians would rob him anyway. My learned friend has also tried to impress upon you the fact that he could not be charged with anything in connection with the fight at Frenchman's Butte, because he was not fighting himself. I have yet to learn that an Indian of his age goes into a fight. My impression from all I have heard of the Indian character generally, is that it is the young braves who fight and the old men who counsel and remain in the camp, and it could not be expected this old man would go out and join in the fray; his place would be in the council advising the young men as to what steps they should take, and having been with them at that time in the camp shows conclusively that he was counselling; and it is a strange thing too, that during all the councils that have been held from the time the prisoners were first taken till they were released we find Big Bear in that council. He was not treated like an old woman, some of his advice and opinions may have been resisted by some of the other Indians, but he was there always giving his opinion as far as we have heard, he was always giving his advice.

Mr. Robertson.—That was not what the witnesses said, it is really too bad to state such things so broadly as that.

Court.—You should not interrupt.

Mr. Scott.—He was always in the council as far as we know; it is possible that I may have overstretched the thing a little, but I remember Mr. Cameron stating that the council that he saw he was taking part in it, and Stanley Simpson said in the council he heard that he was taking part in it, and Maclean said that at a meeting of the chiefs he was one of the four chiefs that came out to meet him at Fort Pitt, and although he does not remember the prisoner saying anything at that meeting, yet he appeared there as one of the headmen of the combined party.

Mr. Robertson.—Did he say he came out to meet him?

Mr. Scott.—If I understand what I did say, I said that when Mr. Maclean came out to meet the chiefs, he was one of the party.

Mr. Robertson.—He found him there, that was in the Indian camp.

Mr. Scott.—Now, gentlemen, I have just one more thing to call your attention to, and that is that at the time of the separation of the Wood Cree from the prisoner and his band, Mr. Maclean tells us that it was the intention of the prisoner and his band to work their way down from that place to Duck Lake. That shows what his intention was at that time. It may not be that there was any evidence of his going down to Duck Lake, but there is evidence that my learned friend has put in that a request came up from Poundmaker's camp, a letter written by a man named Norbert Delorme, and the band was asked to go down to join them. My learned friend lays great stress upon the fact that the prisoner was instrumental or sided with them in their efforts not to get the band to remain with him, but the solution of that is very simple. We have seen from the evidence, and it has been shown to us that Maclean had a very strong influence over this man, he succeeded in convincing this man by some argument, and the prisoner and Maclean together succeeded in convincing the rest of the band, that was the only reason, as appears from the evidence why they did not go down there, and for anything we have heard in the evidence, that is the reason why the prisoner did not want to go down.

I have endeavored to put the evidence before you as plainly as possible. I have endeavored to show that it was not the intention to give any evidence beyond showing the fact that the prisoner was connected with the band who committed certain outrages, who in fact levied war against the Government. No matter what else they did, I think there is evidence to show that the band did that, and there is no evidence to show or not sufficient evidence to show, I submit, that the prisoner had any such intention; he was drawn into it, my learned friend says. I submit the evidence shows conclusively that he was acting with them throughout, although he did not intend, and always fought against going to.

JUDGE'S CHARGE.

Mr. Justice Richardson.—Gentlemen of the jury: This prisoner is charged with participating in rebellious acts against the constitution and government of the country. He is charged under an Act which was passed in the year 1869, as regards the Dominion of Canada, as it was then constituted, and that law was introduced with the constitution under which we at present live into the North-West Territories in the year 1875, and that law says as follows:—Section 5 of chap. 69, 31 Vic. Whoever, after the passing of this Act within Canada or without, compasses, imagines, invents, devises or intends to deprive or depose our Most Gracious Lady the Queen, her heirs or successors, from the style, honor or royal name of the Imperial Crown of the United Kingdom, or of any other of Her Majesty's dominions or countries, or to levy war against Her Majesty, her heirs or successors, within any part of the United Kingdom or of Canada, in order by force or constraint, to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe both Houses or either House of Parliament of the United Kingdom or of Canada, or to move or stir any foreigner or stranger with force to invade the United Kingdom or Canada or any other of Her Majesty's dominions or countries under the obedience of Her Majesty, her heirs or successors, and such compassings, imaginations, inventions, devices or intentions, or any of them, shall express, utter or declare by publishing, printing or writing, or by open and advised speaking, or by any overt act or deed, is guilty of felony and shall be liable to imprisonment in the penitentiary for life.

I must draw your attention, or at least I must remind you, that where the word "sovereign" is used in that statute, the real meaning of it is the "people." It is a cardinal doctrine that the king means the people and their interests and his are inseparable, and where we have in an Act of Parliament the Queen's name, it means merely that where an offence is created that offence is against the people. Now the prosecution is in the interests of the public at large brought or instituted by Her Majesty's representatives as protectors of the public against those men for violating that law. It is true, as we have seen but too plainly, that the prisoner is not a white man—what we term a white man—he is an Indian, but although he is an Indian, I cannot give any other view—put it in any other way to you than to say that between white people and Indians, there is no distinction whatever. The law is there and it is binding upon the Indian; or at least the law is there and the Indian is entitled to as much protection from Her Majesty, and receives as much protection from Her Majesty as the white man; and the converse is also true that from him is due the same amount of respect and allegiance as is due and as we enforce from the white man. True it is, and it cannot be gainsaid that the Indian, as a rule, has not the amount of enlightened education and has not, perhaps, so much civilization as white men, taken as a rule; but I have yet to learn and have yet to see the Indian in the year 1885 who does not know the difference between right and wrong. Innocence or ignorance is not shown at any rate in this case, and therefore it is that I put it to you. I tell you that as regards the man himself, he is there to stand the consequences of whatever acts he may have done or rather charged against him in this paper we have before us. Well, the charge against this prisoner is that he compassed, assisted, lent his aid and lent his influence to rebellious acts and assisted in rebellious acts against the Government. It is my duty to tell you what the law is, and expressing an opinion as to what portions of the evidence you should not consider, as not being law, to leave the question of credibility to you as your share of the responsibility between the public and this prisoner on trial. I have told you what the law of the land is already. I have yet to tell you whether or not the evidence, if believed, amounts to a rebellious act and comes within that or covers the charge. Now, the charge against this prisoner is that he compassed, with other ill-disposed persons, at four different places. 1st, at Frog Lake; 2nd, at Fort Pitt; 3rd, again at Frog Lake; 4th, at Frenchman's Butte. As the evidence is so fresh, it cannot, I think, have escaped your attention. You must be con-

versant with the statements of the witnesses. You must recollect them, I think. I need only say this. I think that if we are to believe the evidence of Mr. Halpin and the evidence of Mr. Pritchard, also the evidence of Mr. Tompkins, not only was there rebellion in existence on the 1st April last, but this man knew it. Now, if he knew it—and I should here say that in this court we do not know, and we are not bound to enquire whether he is a chief, whether he is an influential chief or whether he is not. We are not here to enquire into his status as regards Indian tribes, but we are here to determine whether he, as an individual, took part in any of the rebellious acts which are charged against him.

Now, as I said to you, if the evidence is to be believed of the parties that I named to you, a state of rebellion existed prior to the 2nd April, and the prisoner knew it. Now, if he knew it, what was his duty? What was his first duty, and in what way could he relieve himself of that duty? His first duty was the same as yours and mine would be, not to be found in the rebel camp, but to be found where law and order prevailed. That was his first duty, and if that was his first and main duty, what excuse could there be, what excuse is there why he was not?

Well, the only excuse which the law recognizes is this—taking the words themselves of the authorities “the fear of present death is the only excuse. Suffering, or any other mischief not endangering his person, or the apprehension of personal injury less than would deprive of life, is not a justification of a traitorous act.”

Now, then, was he there? Was he with them, and was he with them under any constraint short of what I have told you? If so, and if as a conviction created in your minds beyond all reasonable doubt, he did so, then I tell you, from a legal standpoint as the law lays down, his guilt is established; but, on the other hand, if there was only an impression of probability, if it ran short of an absolute conviction to your minds, why, then, he ought to be set free. Now, the evidence for the prosecution consists, first, of Mr. Pritchard's, who describes what passed, as you recollect very vividly, I have no doubt, what passed on the 1st April, the evening of the 1st April; or rather I think I must take you back. The first piece of evidence in point of time that we have is that of the witness for the defence, Mr. Halpin, who tells us he lives at Coal Lake, which is a point some number of miles back in the country distant from Frog Lake. Now, Mr. Halpin, if you will recollect, tells us that on the 19th March he told this Big Bear, whom he met some distance north from Frog Lake, away from his camp hunting, of the state of affairs, that Her Majesty's mails had been seized at Duck Lake. Then why did he leave his hunting home? That may strike you as unexplained, but it is for you to determine. We have this man, with his hand calling upon the Government officials back at Frog Lake on the evening of the 1st, and we there have him telling a gentleman, if Pritchard is to be believed, that trouble has broken out, but that he and his band are going to be loyal to the Government. Well, then, you have those unfortunate occurrences which are described by those witnesses as occurring on the following morning, and you also have the fact spoken of by him and by other witnesses, that this man knew, at any rate, what was going on and what had been done, and then you have the further fact brought out by this witness, if he is to be relied upon, mind you, of his directing Montour about the message that he was to send to Lac la Piche, coupled with what he said he had done himself with regard to the chief Peccan, and the White Fish Lake Indians. Well, the next piece of evidence which I should draw your attention to is that of Mr. Simpson, and he tells us of what occurred at the different places, and particularly at Frenchman's Butte—the expression which he made use of after the fight. Well, supposing Mr. Simpson was mistaken, supposing that he is not to be believed, is his presence there explained to you? The same thing will occur to your minds, and I dare say you will ask yourselves how was it he was at Fort Pitt? We know he was at Frog Lake when the thing broke out. How was he at Fort Pitt? And if he was at Fort Pitt, and the protection part of the Government had to leave, why wasn't this prisoner with them? That may strike you. It has struck me. Then, after they had left, where was this man? The same thing will occur to you, when they got back to Frog Lake, where was he? Was he with the

rebels or was he not? If he was with the rebels, why, it seems to strike me as a question, and I simply submit it to you as a class of questions which should enter your minds, and which you should, if possible, seek the solution of, and obtain a solution from the evidence which we have had to-day. Well, then, when we come on further, where was he after this fight that was spoken of? Was he with the peace party, the so-called prisoners who described what they had to go through—was he with them, with the Wood Indians or why was he with the other party; and what was the occasion of the split? Those are questions which, I think, I may fairly suggest in order to arrive at a conclusion that you should ask yourselves, and if a sufficiently reasonable explanation has been afforded as to why he was there.

Now, the first thing that you have to consider from your standpoint is, was rebellion extant on the 1st April? Put it in that way. 2. Did he know of it? 3. If he knew of it, did he by any act—was he a party to any of the overt acts which are named in this charge? If you can answer these questions in the affirmative, if you can draw yourselves to no other reasonable conclusion, if you are satisfied by the evidence you have heard, affirmatively, as a conviction created in your minds beyond all reasonable doubt, that he was, that "yes" should be the answer to each of the questions I have submitted to you, then I say that your verdict should be one of guilt. If, on the other hand, you cannot do that, or from the evidence as presented, you feel that it is so unreliable as to create a reasonable doubt in your mind as to its veracity, why, you ought then to give him the benefit of that doubt, and acquit him.

In the conduct of the case, you may, perhaps, have been struck with the questions having been submitted to me, as to whether the classes of evidence were proper to be received, and you may have heard me say that the evidence, which was intended to be offered, was not strictly proper, and you have heard me say after that, that while holding that opinion and feeling that in strict law, I ought to keep it away from you and not allow you to hear it, yet, I thought and felt that in a case of this sort with the class of man who stands there, the widest possible limit should be given to anything that he had to say, or that any witnesses who might be called for the defence or for him might have to utter and that there might be no doubt on that point, therefore, they have had the benefit of bringing everything before you. Still, the fact remains, and the evidence stands before you as I have told you, and from this evidence, when you come to consider it, you will have to come to a conclusion of guilt or innocence. If knowledge of the rebellion is brought home to him, and participation after that, without excuse, that I have told you of, then he has come within the pale of the law, otherwise he has not.

Now, you will retire, gentlemen, and consider it, and let me return into court for your determination upon it.

Mr. Robertson.—There is one thing that I would ask your Honor to tell the jury, and that is, that although the prisoner was there, if they are satisfied upon the evidence that he was not willingly participating in what was being done, he is not guilty.

Court.—I have told him that.

Mr. Robertson.—I understood your Honor to say if he was there when the fight was going on nothing short of the fear of death would free him.

Court.—I did not say that. The onus of freeing himself from responsibility lies upon him.

Mr. Robertson.—But if the evidence satisfied them that, although he was there, he was not acting with them, but the contrary, his being there was not enough upon which to convict him.

Court.—I think I have put it fairly to the jury.

Mr. Robertson.—Will your Honor tell the jury now that if they are satisfied upon the evidence that, although he was there, he was not aiding and abetting them, then he ought to be acquitted?

Court.—Oh, I think the jury may be brought back, yes.

Jury return to court.

Court.—Gentlemen of the jury: I brought you back because of some question as to my having put the remarks I made in a proper light to you with regard to this

prisoner, as to his presence in what may be termed the rebel camp. Now, I read to you what the law was, but I am asked to go further and to suggest to you to consider whether upon the evidence there is not sufficient to excuse him; whether a sufficient explanation has been given for his presence in the place where he is described to have been; that you should consider whether he was there compulsorily—I think I have got that right now to suit Mr. Robertson—or whether he was there against his will, and acting solely in the interests of peace.

Mr. Robertson.—If they think, though he was there, he was not actually aiding and abetting them, if they are satisfied on that, then they ought to acquit him.

Court.—And that if he was there against his will and giving no assistance whatever, then he would be entitled to an acquittal. I cannot, however, drop my remarks without declaring to them the law on that subject, and it is this: If a number of men band themselves together for an unlawful purpose, and in pursuit of their object commit murder, it is right that the court should pointedly refuse to accept the proposition that a full share of responsibility for their acts does not extend to the surgeon who accompanied them to dress their wounds, to the clergyman who attends to offer spiritual consolation, or to the reporter who volunteers to record their achievements; the presence of anyone in any character aiding and abetting or encouraging the prosecution of those unlawful designs must involve a share of the common guilt.

Mr. Robertson.—Aiding, abetting and encouraging, your Honor. I wish the jury to understand distinctly.

Court.—Now, gentlemen, you will retire again. I have given you the addition. I thought I had placed it plainly before when you went out. You have it now though, and you can retire again.

The jury then return in fifteen minutes with a verdict of “guilty,” with a recommendation to mercy.

Court.—Gentlemen, you are discharged, and I might tell you, gentlemen, that your recommendation shall have all the weight that it can reasonably have. I shall not pass any sentence to-night.

QUEEN vs. BIG BEAR'S BAND, NAN-E-SUE *ET AL.*

CANADA,
North-West Territories. }

The information and complaint of Richard Burton Deane, of Regina, in the North-West Territories of the Dominion of Canada, superintendent in the North-West Mounted Police, taken the third day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned one of Her Majesty's stipendiary magistrates in and for the said North-West Territories, who saith:—

That Nan-e-sue, Mis-cha-chaq-e-mish, Kah-sah-ko-wa-tit, Koos-tope-e-quob, Nah-pace-is, Kah-ke-we-pah-tow, Oos-ka-ta-task, Ah-tim-yoo, Ah-tom-iss-com-co-ah-wah-see, not regarding the duty of their allegiance but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear towards our said Lady the Queen, on the second day of April, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers evil disposed persons to the said Richard Burton Deane unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within Canada, in order, by force and constraint, to compel her to change her measures and counsels; and the said felonious compassing, imagination, invention, device and intention then feloniously and wickedly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say:

In order to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention, aforesaid, they, the said persons above charged and each of them, after wards, on the second day of April, in the year aforesaid, and

on divers other days and times, as well before as after that day, at and near the locality called Frog Lake, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together with divers other evil disposed persons to the said Richard Burton Deane unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further, to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said persons above charged, and each of them afterwards, to wit, on the seventeenth day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Fort Pitt, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Richard Burton Deane unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further, to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said persons above charged, and each of them, afterwards, to wit, on the twenty-eighth day of May, in the year aforesaid and on divers other days and times as well before as after that day, at or near the locality known as Frenchman's Butte, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Richard Burton Deane unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

In contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

R. BURTON DEANE.

Sworn before me, the day and year first above mentioned, at the town of Regina, in the North-West Territories of Canada.

HUGH RICHARDSON,

Stipendiary Magistrate in and for the said North-West Territories of Canada.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way, without the intervention of a jury.

Which do you elect?

The Queen vs. Nan-e-sue, and eight others, mentioned in the above charge.

WEDNESDAY, 16th September, 1885.

Before His Honor Judge Richardson and Henry Lejeune, J.P.

Mr. Peter Hourie is sworn as interpreter—Cree.

Prisoners were all charged on 3rd September, and all pleaded "not guilty."

Jury called and sworn.

Charge read to the jury.

Messrs. D. L. Scott and W. C. Hamilton appear for the Crown.

Mr. F. B. Robertson for the prisoners.

Clerk of Court.—Upon these charges the prisoners at the bar have been arraigned, and upon their arraignment have pleaded "not guilty." Your duty (to gentlemen of the jury), therefore, is to enquire whether they be guilty or not guilty, and hearken to the evidence.

Mr. Scott.—May it please your Honor and gentlemen of the jury,—The charge which you have heard read is what is known as the charge of treason-felony. It is, in substance, a charge that the prisoners designed and intended to levy war against

Her Majesty, which means that they designed and intended to levy war against the lawfully constituted Government of the country. It goes on to say, that in order to carry out that design and intention, they, on three separate occasions, conspired with others to make and levy rebellion. The first occasion mentioned in the charge is on the 2nd of April, at Frog Lake. That is the date of what is known as the Frog Lake massacre. The second is on the 17th April at Fort Pitt, the date of the taking and sacking of that place; and the third is on the 28th May, which is the date of the battle of what is known as Frenchman's Butte. These prisoners belong to a band who were living somewhere in the neighborhood of Frog Lake and known as Big Bear's band. On the 2nd of April that band and a number of other Indians in that section of the country broke out into rebellion. I shall first show you that the country in the northern part of the territories in the neighborhood of Batoche and Duck Lake had been for some time previous to that date in a state of open rebellion. The rebellion, however, at Frog Lake broke out on the 2nd April. The band to which these men belonged was in rebellion until some time in the latter part of the month of May. The first overt act on that occasion was the seizure of the Hudson Bay store and other buildings in the settlement at Frog Lake, and the killing of a number of the settlers in that district. The second was on the 17th April, the date of the taking of Fort Pitt. After the massacre and the sacking of the settlement at Frog Lake, the band to which these prisoners belonged moved down to Fort Pitt, and on the 17th April that place fell into their hands, and it was sacked and looted, and a number of settlers and others who were in Fort Pitt at the time were made prisoners. They afterwards travelled over that part of the country for some time, and on the 17th May they met the troops under General Strange, and a fight ensued on that occasion.

Those are the three acts which we charge against these prisoners. We charge that they were present on those occasions that I have mentioned, and on other occasions about that time and in that neighborhood; that although, perhaps, we cannot prove any particular acts or outrages on the part of any of these prisoners, we can show that they were present with that band on the 2nd April, from 2nd April till after the 17th May, that is, the battle of Frenchman's Butte; and although they may not have committed those outrages themselves they were combining with others who did commit them. It is possible we may be able to show that these men were fighting on one or two occasions, at all events. We will show that they were prepared to fight if necessary, that they were joined with others who were fighting, and if not fighting themselves they were aiding and abetting those who were fighting.

WILLIAM BLEASDELL CAMERON, sworn:—

Examined by Mr. Scott:

Q. You were in the employment of the Hudson Bay Company? A. Yes.

Q. About the 2nd April last? A. Yes.

Q. Where? A. At Frog Lake.

Q. Did you see any of the prisoners there on that day? Do you know any of them? A. Yes, I know them all.

Q. Do you remember having seen any of the prisoners at Frog Lake on that day? A. Yes.

Q. Which of them? A. I saw the second prisoner charged there, and I saw the third one and I saw the sixth, and I saw the seventh, and I saw the eighth, and I am not certain about the other. I am pretty sure that he was there—the last one, the ninth.

Q. Do you know their names? A. Yes.

Q. Just give us the names of those you know? A. The first prisoner you have charged, I don't know him by that name; Natoos is what we always call him. Kah-sah-kowah-tah, No. 3; Kah-ke-we-pah-tow, No. 6; and No. 7, and No. 8.

Q. Those you remember seeing at Frog Lake on the 2nd April? A. Yes.

Q. What happened on that day at Frog Lake? A. Well, I was sleeping the night before, or the morning of the 2nd April, and I was waked by an Indian—he was a Wood Cree, who belonged to Frog Lake; he is not here—and I got up. He told me Big Bear's men had taken the Government horses; and I went down stairs, and Big Bear's son came into the house and a lot of these Indians with him, and they asked me if I had any ammunition in the store, and I told them that I had, when Big Bear's son told me to give it to them, that if I did not, they would take it; so I gave it to them, what there was—there was very little there.

Q. Who did you give it to? Was that in the store that you gave it to them?

A. Yes.

Q. Were there any others there besides Big Bear and his son? A. Big Bear was not there himself; there was his son. Oos-ka-task was in the store.

Q. How many were in? A. There must have been twenty in the store.

Q. Were you in the store when they asked for the ammunition? A. No; there was a house right adjoining this.

Q. They asked you for ammunition, and then you went over to the store?

A. Yes.

Q. Did these men come in? A. Yes.

Q. When? A. They called me into the store.

Q. Did they do anything when they were in there besides taking the ammunition you gave them? A. Yes, some of them reached over and helped themselves to things off the shelves.

Q. Without asking your leave? A. Yes.

Q. What next occurred? A. I had a friendly Indian with me, and he ordered them to go out of the store.

Q. What occurred after that? When did you leave the store? A. I left the store and went out, and then they took me over to Mr. Quinn, the Indian agent's house.

Q. Who took you over? A. Wandering Spirit was the man that ordered me over.

Q. Did anything occur there? A. They made demands there for beef of Mr. Quinn, and it was given to them, and they talked very badly towards the white people there; and after that we went out, and they came into the house, and I charged these things as they got them, merely as a show, as I had been accustomed to doing; and they asked me what I was charging them with, laughing about charging the things to them.

Q. Was that when you were in the store the first time? A. After I came out; I charged them in the house.

Q. Did you go back to the store again? A. Yes, I went back several times.

Q. What for? A. Different Indians came to me and wanted to get things, and I could not refuse them. I dare not refuse them.

Q. Why couldn't you refuse them? A. Because they would have, just as likely as not, blown my brains out.

Q. You were afraid to refuse them? A. Yes.

Q. What happened after you gave those things out of the store? A. Then the white people all went to the church, and I was ordered to go to the church with the rest.

Q. By whom? A. Wandering Spirit.

Q. The white people all went to the church, and you were ordered by Wandering Spirit to go? A. Yes, and some of these Indians were standing around. They all had their guns there.

Q. They were all armed? A. Yes, they were standing around the church door, and the priest held or celebrated mass, and after that we went away again.

Q. You went away? A. All the white people.

Q. Where did you go? A. I went back to the store with Big Bear's son.

Q. What did you do when you got back? A. He borrowed a flag from me, Big Bear's younger son, and I gave it to him.

Q. I want to know what occurred at Frog Lake, and what you saw, and under what circumstances you saw it. I don't want to know all the goods they got out of the store. When you were in the store something happened. What happened? A. Well, that was afterwards. I was in the store with one of Big Bear's band, and I heard a shot fired.

Q. One shot? A. Well, I heard one, and then there was a slight pause, and then after that there was several shots fired in succession.

Q. What did you do? A. I ran out of the store and locked the door, and I looked up the street, and I saw the Indians running around, riding on horseback, shooting and yelling.

Q. Did you see anything else? A. Well, I saw one of them chasing Louis Goulet, and I saw two bodies lying down.

Q. Whose bodies were they? A. I could not tell from where I was whose they were, but I knew they were Quinn's and Charlie Gouin's.

Q. How did you know? A. Because I had seen them standing there just as I went into the store.

Q. What were they doing? A. I thought they were coming towards the store the time I just looked around when I went in.

Q. Then, when you heard shots fired and went out, you saw two bodies lying where these men had been standing when you went in? A. Yes, just about that.

Q. And then, afterwards, you saw Louis Goulet doing what? A. He ran past me on the road. There was an Indian running alongside of him with his gun pointed at him, and another Indian behind him, between him and this other Indian. After that there was an Indian ran up to me and told me that Quinn had been shot, and he says: If you speak twice you are a dead man.

Q. Well, what did you do? A. There was a friendly Indian with me, caught me by the hand, and he said, come this way, and I started towards where the bodies were lying, and he says, go this way, and he turned around and went in an opposite direction, and then up at right angles again in the direction of the camp.

Q. Of whose camp? A. Of the camp of Big Bear's Indians, and while I was going along, I saw Mrs. Simpson. The shooting was going on all this time.

Q. Were those the only two men that you saw killed? A. Yes; I never looked after that.

Q. And then you went to Big Bear's camp? A. Yes.

Q. What became of you after you got there? A. I was taken by the Wood Cree.

Q. In what way were you taken? A. I was taken into the chief's tent, and he told me that he would see there was nothing happened to me.

Q. Why did you remain with them? A. Because they were protecting me.

Q. How long did you remain with the Indians? A. I was a prisoner—

Q. You were made a prisoner? A. Yes.

Q. How long were you detained as a prisoner? A. I was detained just exactly two months.

Q. Where did you leave, how did you get away? A. I left while the fight was going on at Frenchman's Butte.

Q. While the fight was going on at Frenchman's Butte—were you released? A. No, there was a small party of us escaped.

Q. Were you at Fort Pitt on the 17th April? A. No, I wasn't there.

Q. Now, can you tell what any of these men were doing, what state these men were in, the men that you recognized, there are five that you recognized, can you tell what they were doing at Frog Lake? A. Well, they were in this crowd that were shooting, and they were with the band that ordered us around.

Q. Did you see any one of them doing anything in particular? A. Well, not at that time.

Q. Did you at any time afterwards? A. I saw Oos-ka-task.

Q. What did you see him doing? A. I saw him take a horse from a half-breed, a prisoner in the camp.

Mr. Robertson.—That does not come under any of the acts charged.

Mr. Scott.—I suppose not.

Q. Is that the only thing you saw him doing? A. Yes.

Q. Do know how long these five men that you speak of remained with the band during the time? A. They remained up to the time I left.

Q. When did you last see these men? A. I saw them at Frenchman's Butte before the fight.

Q. Do you remember whom you saw there, which of them you saw at Frenchman's Butte? A. I saw them all—all the prisoners.

Q. That is, all those five? A. I saw every one of the prisoners.

Q. The whole nine? A. Yes.

Q. When, the day before the fight? A. Yes, inside of two or three days before the fight.

Q. Inside of two or three days before the fight you saw all the prisoners? A. Yes.

Q. What were they doing at that time? A. Well, they were making a thirst dance, a lodge.

Q. Do you remember having seen any of them on the day of the fight? A. No, I did not see any of these Indians then. I was not within a mile of where they were fighting.

Q. But before the fight did you see them, on the day of the fight, before it commenced? A. No.

Q. You don't remember having seen any of them that day? A. Not any of these. We were not camped with the main body of the Indians. I only saw a few of them just at the time.

Q. There are four you don't recognize as having seen at Frog Lake, that is, No. 1 charged, No. 4, No. 5, No. 9. Do you remember having seen them afterwards at any place—at the time of the thirst dance? A. Yes, they were all there at the time of the thirst dance.

Q. Did you see them more than once? A. Yes, I saw them often.

Q. Between what times? A. Well, I saw them the 26th May, I saw all of them then.

Q. Where was that? A. At the thirst dance.

Q. Had you seen them before that time? A. Yes.

Q. More than once? A. Yes, I saw them often before that, all of them.

Q. Then, is it a matter of fact from what you saw of them you concluded they were with the band all the time? A. Well, there was one of them that was away, he went out as a messenger.

Q. Which one? A. The second one.

Q. How do you know he went as a messenger? A. Well, I saw him getting ready to start.

Q. Where? A. From Frog Lake.

Q. When? A. It would be about the 1st May, the latter end of April or beginning of May.

Q. Did you hear him saying where he was going to? A. Yes.

Mr. Robertson.—Has this anything to do with the charges?

A. He was going to Turtle Lake to bring the Indians from there.

By Mr. Robertson:

Q. Did this prisoner tell you that? A. No; I was told by a number of Indians.

By Mr. Scott:

Q. By whom were you told? A. Well there are not any of the persons here, but I was told by Louis Patenaude who was in the camp, he is a Wood Cree.

Q. Was he in the camp? A. Yes.

Q. In what position was he in the camp?

Mr. Robertson.—I submit whatever his position was, or what he was doing, what he told this witness about what another man was doing, cannot be evidence.

Court.—Not by itself, but if it is one of a series of facts which led up to something, it is evidence.

Mr. Robertson.—What took place at meetings where a conspiracy was going on is no doubt evidence, under the ruling in Frost's case, but what some person told this witness about what somebody else was doing is not.

Court.—If he was one of the conspirators it is evidence directly under the Frost case.

Mr. Robertson.—I think so, your Honor. If I recollect the Frost case correctly, it was allowed to be shown what took place at a meeting held by conspirators, it having been first shown —

Court.—A meeting at which those who were charged were not present at all.

Mr. Robertson.—Certainly, but it was what took place at the meeting where the conspiracy was going on, that being of course an overt act itself.

Court.—But that was not an overt act, Mr. Robertson, charged.

Mr. Robertson.—I am not sure whether it was an overt act charged or not, but the distinction I draw is that the acts of the different conspirators may be given in evidence on the understanding that they are going to be connected in some way sooner or later with the prisoners.

Court.—Exactly so.

Mr. Robertson.—But what one conspirator alleged—what one conspirator tells a witness as to what another conspirator alleged but not proven yet, would not be evidence.

Court.—Oh, no, of course not. If I gathered what Mr. Scott first understood from this witness, was that it was a direct assertion made by this prisoner, and then it turns out that some other one of the conspirators who is not here to-day said so—and so in the witness' presence, and if that was followed up, it would be evidence, you get this way what that other one said.

Mr. Robertson.—I don't think it would be, your Honor.

Court.—If it culminated in an act.

Mr. Robertson.—Your Honor sees that they're just proving the act by hearsay evidence.

Court.—We must not drift into that, if it simply stands where it is without anything further, I say at once, strike it out.

Mr. Robertson.—And I don't think it makes any difference. My learned friend asks what position this other man occupied. I do not think that makes any difference, whatever position he occupied, whatever he said to this man about another man is not evidence.

Court.—If he was one of a band doing an act or making an assertion culminating in an act, and the prisoner was a party to it, it would be evidence.

Mr. Robertson.—If in conjunction with a co-conspirator, and this man heard it, it would be evidence, but where the evidence is merely that somebody told me, I not being a conspirator, that this other prisoner was gone off on a certain message, it is not evidence. I don't think it is admissible at all.

Court.—It is not the ordinary way of proving it, I quite admit. The witness may be asked the question at present, and we will see what it is followed by, and I will say whether it should be allowed or not.

By Mr. Scott :

Q. The man who told you this was a Wood Cree? A. Yes.

Q. Did you see the second one charged? Did you have a talk with him about it?

A. No, I did not speak to him personally.

Q. At all events you saw him going away? A. I did not see him.

Q. What did you see? A. Well, I saw that he was not in the camp; I saw him making preparations to go away.

Q. And you did not see him going away? A. No.

Q. Well, did you see him about the camp afterwards? A. No; not for several days.

Q. Then you saw him again? A. Yes.

Q. And how long did he remain in the camp after he came back? A. Well, he remained up until the time—he remained till I left there; he was there when I left there.

Q. At all events he was there at the time of the thirst dance? A. Yes.

Court.—Now, Mr. Robertson, we have it in this way as I take it: this No. 2 was absent for sometime from the camp for several days, but was there when the witness escaped.

Mr. Robertson.—That is all it amounts to.

By Mr. Scott:

Q. How were you kept as a prisoner? A. I was just told that if I was found trying to escape, I would be killed.

Q. And you concluded it was advisable not to try? A. Well, it was on account of the other prisoners that I stayed.

Q. Why? A. They said that if one prisoner was to escape they would kill all the others, and that is the reason.

Cross-examined by Mr. Robertson:

Q. The home of these men was with Big Bear's band, wasn't it? A. Yes, they're part of Big Bear's band.

Q. That is where they always lived? A. Yes, ever since I have known them.

Q. And you saw them with their own people on these different occasions? A. Well, there is one of them there I don't think belongs to Big Bear's band; he comes from Long Creek, about 35 miles from there.

Q. He is one of the Wood Crees is he? A. I could not say whether he is a Wood Cree or not; there are some few Plain Crees living amongst them.

By the Court:

Q. Which number is that? A. No. 4.

By Mr. Robertson:

Q. You have not identified that man before? A. I did not identify him as being at Frog Lake.

Q. I speak of the five you have spoken of as members of Big Bear's band. A. Yes.

Q. Their home was with the band? A. Yes.

Q. And you did not see any one of them do any particular act of wrong; all that you say is that you saw them there when others were doing wrong? A. It just depends on the time you speak of.

Q. Well, on these occasions at Frog Lake and at Frenchman's Butte that you have spoken of? A. I thought it was rather wrong to come and threaten to break open the store.

Q. But did you see any of these men attempting to break open the store himself? A. Well, they were at the back. They spoke the same as Big Bear's son, who said we will break open the store if you don't give us ammunition.

Q. And they were in the crowd? A. Yes.

Q. But that is all, none of them made any threat? A. No, they did not threaten me.

Q. None of these five himself committed any act of violence? A. I could not say that I saw—

Q. A thirst dance is not a war dance? A. No.

Q. It is a dance that they have every year or several times every year, don't they? A. Yes, when they can manage it.

Q. When they can get the wherewithal? A. Yes.

Court.—None of this evidence has been interpreted as yet, to the prisoners.

Mr. Robertson.—As to these Indians, I am just in this position, that I can find nothing against them except that they are members of the band. Perhaps it would be

just as well to interpret the evidence to the prisoners. (Evidence interpreted accordingly.)

Mr. Robertson asks that the prisoners be told to listen, and say if there is anything wrong in the evidence of the witness, or if they want any further questions put to the witnesses to let him know so that he might do it.. (This is accordingly done.)

By Mr. Robertson :

Q. Did you see any of the nine on the occasion of Frog Lake massacre, at the store, or what happened immediately afterwards, or afterwards at Frenchman's Butte? Did you see any of them commit any act of violence yourself? A. I did not see anything myself. That second man came and ordered me to fix his buckboard on the 26th, so I have good reason to remember that he was there. I saw none of the prisoners commit any act of violence on the 2nd April or 28th May. I saw No. 8 close to his tent. He was carrying a gun and yelling out the war-whoop.

Q. No. 8 says the time the trouble was going on—the Frog Lake massacre he refers to I suppose—he was over at the tents? A. I met him just while the shooting was still going on. I met him close to the tents, and he had his gun in his hand, and he was calling out the war-whoop and running—he was walking along fast with his gun in his hand towards where the shooting was going on. No. 6 I saw just standing outside the door. Some of the rest of them being inside.

Q. Where did you see No. 6 fire, in all these places? A. I say he was with the crowd.

Q. Do you recollect Oos-ka-task particularly that morning in the store? A. Yes.

Q. He says he went there and he had some money and he bought some tea from you? A. I remember him getting that, but then they all got stuff, and they asked for it on their accounts, but it was just a mere—

Q. Never mind your opinion—they asked for them on their accounts who habitually had accounts with you? A. Yes.

Q. And what these men got they asked for on their own accounts, and that it should be charged to them? A. Yes.

By Mr. Scott :

Q. Did any of them pay for anything they got that day? A. I might have got one or two shillings from them, in cash from some of them. I don't remember now for certain.

Q. Oos-ka-task says he paid 75 cents with which he bought tea and sugar? A. I think he did do that.

Q. Do you remember at what time he was in the store? A. Yes.

Q. Was it the first time you went over to serve out the ammunition or afterwards? A. Yes, he was there the first time.

Q. How many were there the first time? A. I should think there were about twenty.

Q. Who got the ammunition, how many of them? A. They took it and divided it amongst themselves.

Q. Did they say anything about the ammunition, about giving it to them in the store when you were in the store; I think you said that some one came to you and told you to give the ammunition, and if you did not give it—they made some threat, wasn't that what you said? A. Yes.

Q. That was before you went into the store? A. Yes.

Q. Were there many there when he told you this? A. About twenty.

Q. Was Oos-ka-task one of them? A. Yes, he was with them.

Q. Was he there when that threat was made? A. Some of them were standing outside the door, and the house was full, and it would be hard to—

Q. You can't tell whether he heard it or not? A. No.

Q. At all events you went over and gave how much ammunition? A. There would be about three pounds of powder.

Q. How much had you in the store? A. Perhaps three or four pounds of ball, that was all I had. I had sent it away before this by the police.

Q. You gave them all the powder and ball that there was in the store? A. Yes.

Q. And they divided that up? A. Well, they took it away in a lump.

Q. Were you paid for that? A. No.

Q. Did you charge it up? A. Yes.

Q. Who did you charge it to? A. I charged it to the Indian Department.

By the Court:

Q. Is that what you mean by charging? A. No, I charged some of it to the personal accounts.

By Mr. Robertson:

Q. The Indians regularly keep accounts with the Hudson Bay Company, don't they; and settle up after the end of the year, after the trapping is over, isn't that the general custom? A. Well, they regularly keep accounts if they can.

Q. I mean, if they can, and they settle up when their trapping is over, they settle up with pelts and things they bring in, isn't that the general way? A. Yes, they don't always settle up, but they promise to.

Q. But that is the usual practice, a good many of them do settle up, don't they? A. Yes.

Q. And the company don't generally give credit to those that they don't find pay? A. No, not those that are not in the habit of paying.

By the Court:

Q. And I think you have told us that the company had accounts with all these A. Yes.

Q. Open accounts? A. Yes.

Q. Of the nature that Mr. Robertson speaks of? A. Yes. Oos-ka-task came back from Battleford just a few days before this thing happened at Frog Lake; he was down at Battleford a few days before this, Frog Lake; 2nd April.

By Mr. Scott:

Q. He was there on that day, though? A. Yes.

JOHN PRITCHARD, sworn—

Examined by Mr. Scott:

Q. You were interpreter for the Indian Department at Frog Lake? A. Yes.

Q. Were you there on the 2nd April last? A. Yes.

Q. What happened on that day? A. Well, that was the day that the massacre took place at Frog Lake.

Q. Did you see any people killed there? A. There was one.

Q. You saw one? A. Yes, I saw one, it was Charles Gouin, but I did not see the man who shot him, he shot him from behind.

Q. Did you see any others who had been killed; any other bodies there? A. No, not that day.

Q. About what time was it that Charles Gouin was killed? A. Second day of April.

Q. What time of day? A. It must have been about 7 or 8 o'clock I suppose, in the morning.

Q. Had there been anything done before that? A. Yes.

Q. What was done? A. I went to the Indian agent; the Indians asked some beef.

Q. What Indians? A. Band of Indians that was there.

Q. Big Bear's band? A. Big Bear's band.

Q. They came to ask for some beef? A. They asked for some beef.

Q. And you referred them—you went to the Indian Agent? A. I saw the interpreter and I went to the Indian agent and interpreted that the Indians wanted beef, and so they got beef, and then after that they took us to the church.

Q. How did they take you to the church? A. They drove us like a band of sheep with their guns from behind.

Q. Whom else besides you? A. All the white people that were there in the settlement.

Q. They drove you to the church? A. Yes.

Q. They were driven to the church by the Indians who were armed? A. Yes.

Q. After they got to the church what did they do? A. They staid there waiting till the mass was over.

Q. Then after the mass was over? A. After the mass was over we got out of the church.

Q. And then what was done? A. A while after, that was the time that I heard the shots going.

Q. Well, where were you when you heard the shots going? A. Getting near my house.

Q. You heard some shots fired? A. Yes, I heard one shot first, and then several shots afterwards.

Q. Were there any Indians close to you at the time? A. Yes.

Q. Did you hear them saying anything about it? A. Yes.

Q. And then afterwards you saw Gouin killed? A. Yes.

Q. And shot? A. Yes.

Q. Who was standing around there besides you? A. Well, I did not take notice of who was standing around me at that time, only when I looked around I seen Indians around.

Q. Any besides the Indians? A. Well, it was only Indians I seen.

Q. There was only Indians around at the time Gouin was shot? A. Yes, and they took me to my house, and there was a band of Indians in my house all armed.

Q. They took you prisoner? A. Yes, I asked them to see my family, and they took me in, and there was a band of Indians there.

Q. The Indians took possession of your house? A. Yes.

Q. After that what was done with you? A. They took us to the camp.

Q. As prisoners? A. Yes.

Q. How long did you remain prisoner? A. Two months.

Q. Did you remain or were you released? A. I escaped.

Q. When? A. After the battle of Frenchman's Butte.

Q. About how many prisoners had they in the camp during that two months?

A. I don't know exactly the number.

Q. There were others there besides you? A. There was a good few.

Q. A good few prisoners? A. Yes.

Q. Were you at the battle of Frenchman's Butte? Did you see any fighting there? A. No.

Q. Did you hear of the fighting? A. I heard the shots, and I heard the cannon too.

Q. Did you hear any of the Indians say as to whom they were fighting against? A. Yes.

Q. Whom? A. They were fighting the soldiers.

Q. What soldiers? A. Government soldiers.

Q. That was at Frenchman's Butte? A. That was at Frenchman's Butte.

Q. Were you taken to Fort Pitt at any time? A. Yes.

Q. When? A. It was on the 15th April.

Q. On the 15th you were taken as a prisoner to Fort Pitt, 15th April? A. Yes.

Q. By the same Indians? A. Yes, by the same Indians.

Q. What was done at Fort Pitt? A. They killed one man there again.

Q. Who was that man? A. Cowan.

Q. Did you see that man killed? No, I did not see him killed.

Q. Did you see his body? A. Yes, afterwards—two days afterwards.

Q. What else did they do there besides killing this Cowan? A. Well, they ransacked the fort.

Q. Plundered the fort, I suppose? A. And plundered the fort.

Q. Where did they go after doing that? A. They went back again to Frog Lake.

Q. And how long did they remain at Frog Lake? A. Up till the 1st of May.

Q. And then they moved where? A. Downwards towards Pitt.

Q. And which direction from that? A. From Frenchman's Butte right north.

Q. But you left them at Frenchman's Butte? A. Yes.

Q. They moved down from Frog Lake to Fort Pitt and Frenchman's Butte?

A. Yes.

Q. On the day of the battle you left them? A. Yes.

Q. And you don't know what became of them after except what you have heard, I suppose? A. No.

Q. Do you know the prisoners? A. I do.

Q. All of them? A. Yes.

Q. What band do they belong to? A. Well, the first one belongs to Onion Lake band. His name is Nan-e-sue. The fourth one belongs to Long Lake.

Q. Do you remember the others? A. The others belong to Big Bear.

Q. With those two exceptions they all belong to Big Bear's band? A. Yes.

Q. Do you remember having seen any of them on the morning of the massacre, on the 2nd April? A. Yes.

Q. Whom? A. I seen the second one and the third one, and the sixth and the seventh.

Q. The others—do you know whether or not they were there on that day? A. No, they were not there.

Q. They were not there that you saw? A. The first one, I am sure he was not there.

Q. Can you swear positively that the others were not there on that day? A. Yes, the first one and the fourth one.

Q. Where were they? A. Well, the first one was at Onion Lake; on the 2nd April he was at Onion Lake, and the fourth one was at Long Lake.

Q. How do you know? A. The way I know it was us that were attending to the Indians, and we knew who were there that day, and I knew who came afterwards.

By the Court :

Q. They came in afterwards? A. Yes, they came about the 5th April.

By Mr Scott :

Q. When did you see the fifth one, Nah-pace-is? A. I seen him a while after in the camp.

Q. Then he was not there on the 2nd April? A. No.

Q. During the time you were prisoner did you see all the prisoners here? A. Yes.

Q. More than once? A. Several times. I saw them often.

Q. From what you saw are you in a position to state how long they were there, when they came in, and how long they remained? A. Well, they remained in the camp of course till they were captured, because when I left the camp they were all there yet.

Q. Those that were there on the 2nd April remained with the others till you escaped? A. Yes, until I escaped.

Q. Nan-e-sue came in a few days after the 2nd April? A. Yes.

Q. The fourth? A. He was there at Frog Lake 2nd April.

Q. Nah-pace-is, when did he come in? A. He came in a while after.

Q. What do you mean by a while after? A. About ten days after.

Q. Before they went to Fort Pitt? A. I don't recollect whether it was before he was at Fort Pitt or after.

Q. The 8th, when did he come in? A. He was there.

Q. At Frog Lake? A. He was there at Frog Lake, on 2nd of April.

Q. And No. 9? A. He was at Frog Lake on the 2nd of April.

Q. Nan-e-sue and the fourth came a few days afterwards? A. Yes.

Q. Nah-pace-is came in ten days afterwards? A. I have seen him in the camp.

Q. But you don't know whether he came in the camp before going to Fort Pitt on the 15th of April? A. That, I am not positive sure of.

Q. Then all the others, besides those three, were at Frog Lake? A. Yes.

Q. And I understood you to say remained in the camp until the rest—with the rest, until the time you escaped? Remained with the rest as far as you saw? A. Yes.

Q. And you saw them frequently during that time in the camp? A. Yes, for two months.

Q. Now, did you see the plundering of Fort Pitt? A. Yes.

Q. Did you see the Indians plundering the fort? A. I saw the Indians in the fort.

Q. And plundering? A. And plundering, yes.

Q. Do you remember whether you saw any of these prisoners there? A. Yes. I have seen them on top of the hill before they went down to plunder the fort. I saw all of these prisoners up the hill, before they went down to the fort.

By the Court :

Q. You saw the whole of the prisoners, did you say? A. Except Nah-pace-is No. 5. I am not positive sure of him.

Q. You saw them all there; did you see any of them plundering? A. No.

Q. Did you see any Indians plundering? A. No. The only thing that I saw, that I am positively sure of, is that a horse belonging to the Indian Department, Nah-pace-is had in his possession all the time, the two months.

By Mr. Robertson :

Q. Did that horse come from Fort Pitt? A. From Onion Lake.

By Mr. Scott :

Q. What did they do with the houses and stores and their contents, at Frog Lake? A. Well, I saw a blaze on the house, from a distance, that the houses were burning.

Q. Do you know whether anything was done to them before they were burnt? What became of the goods in the stores for instance, do you know? A. No, I don't know what become of the goods, because the houses were burnt after I was in the camp.

Q. Did you see in the Indian camp any goods that you recognized as being taken from Frog Lake, or from Fort Pitt? A. Yes.

Q. You saw in the camp some of those goods? A. Some of those.

Q. Taken from where? A. Taken from Frog Lake, but the goods were not there that I saw in possession of the Indians.

Q. But you did not see any of these particular prisoners? A. No.

Q. Did you recognize any of the goods that were taken? Did you see them bringing in any goods from Fort Pitt store? A. Yes. The second one there had some raisins, and I think it was out of Fort Pitt. That was all I saw.

Q. That is all you saw? A. Yes, that is all that I saw.

Q. Do you know what the object of this rising was; or did you ascertain from the Indians themselves what the object of the rising was? A. No.

Q. You never heard anything about it? A. Never heard anything about it.

Q. Do you know what they intended to do when they came down towards Fort Pitt, after the second time, and Frenchman's Butte? A. Well, they intended to fight.

Q. How do you know? A. Because I heard some of them——

Q. You heard some of them say so? A. Yes.

Q. That they were going to fight? A. Yes, I heard Wandering Spirit saying, nearly every day, that they were determined to fight.

Q. Did he say that to you alone or did he say it publicly? A. Publicly.

Q. That they were determined to fight whom? A. Any white he would meet, he said.

Q. Did he say what the others were going to do? A. No.

Q. Did you see any of these men at Frenchman's Butte the day of the fight?
A. I seen them the day before.

By the Court:

Q. Saw whom? A. I saw these prisoners over here the day before the fight.

Q. What were they doing? A. Well, they were getting ready. They were making holes called rifle pits, and then the day of the fight I did not see them.

Q. You had some other business to attend to? A. Yes, we got out early in the morning.

Q. What other preparations were they making for fighting that day? A. That was all that I seen. They were making rifle pits.

Q. Doing anything else? A. No.

Q. Had they any arms? A. Yes; every one had arms.

Q. Were they usually armed? A. Well, for three weeks they carried always their guns.

Q. Well, were they in the habit of all carrying guns before that? A. Yes, the Indian has a habit of carrying a gun.

Q. You said for three weeks they were armed? A. Yes, constantly, every day after that.

Q. Well, were they in the habit of being constantly armed before? A. Well, as soon as an Indian wants to go off a piece he has a gun to start with.

Q. You say that you saw them preparing for fighting by digging rifle pits? A. Yes.

Q. Did you see these prisoners at that work? A. I have seen them that day.

Q. And you don't remember that you saw them making any other preparations?
A. No.

Q. Did you see any of them in the rifle pits? A. No.

Q. The day before the fight occurred was there any excitement in the camp?
A. Yes.

Q. What was the cause of it? A. They had seen the troops.

Q. And was it then they commenced making rifle pits? A. Yes.

Q. And that was the preparation they were making for the battle? A. Yes.

The court here asks the witness to tell the prisoner in Cree what he has said,
Mr. Hourie to check, if necessary. This is accordingly done.

By the Court:

Q. Wandering Spirit stated to the Indians his intention to fight the whites? A. He always said he wanted to fight.

By Mr. Scott:

Q. Did you hear him say anything as to the intention of the other Indians? A. I have heard him often, nearly every third day anyhow, say that he was determined to fight.

Q. Did you hear him say as to what the other Indians were going to do? A. No, the only way I used to hear is, pity me, help me to fight. That is what he always used to say to the Indians.

By Mr. Robertson:

Q. He was begging them to help him? A. Yes.

By Mr. Scott :

Q. Did any of them answer him? A. No, I never heard any Indian answer him.

By Mr. Robertson :

Q. Where were you the day before the fight at Frenchman's Butte? A. I was there, just at the place where the rifle pits were put, built.

Q. Were you there all day? A. Yes, all day.

Q. How many Indians were there altogether? A. All the Indians that were in the camp—every one was there, I don't know the number.

Q. You are prepared to swear to that, all the Indians that were in the camp were there? A. I did not know of anybody getting out of the camp.

Q. And therefore you suppose that all were there that were in the camp? A. Yes.

Q. But people might have gone out of the camp without your knowing it, mightn't they? A. They might.

Q. Did you tell us how many Indians were there altogether in numbers? A. They would number about 300.

Q. Did you see every one of those 300 there? A. A man could not see the whole of the 300 at a time except he goes to count them and see who were there, but I could not do that.

Q. You did not do that? A. I did not do that.

Q. Are you prepared to swear positively on your oath that you saw every one of these nine prisoners digging rifle pits that day? A. No.

Q. You could not swear to that? A. No, but they were there.

Q. You could not swear that you saw all of them digging rifle pits that day? A. No; but they were there.

Q. They were in the camp you mean? A. No, they were—

Q. You are sure they were nine of the 300 that were in the camp? A. Yes.

Q. That is what you mean by their being there? A. Yes.

Q. What is this war-whoop that we have heard spoken of? A. I don't understand the war-whoop.

Q. Well, you know that the Indians have a way of shouting sometimes? A. Yes!

Q. And they do shout if they are going to have a fight? A. Yes.

Q. Or if there is going to be trouble? A. Yes.

Q. Do they also shout whenever there is any excitement of any kind? A. Yes!

Q. Do they always shout when they are excited? A. Yes, when they are excited, they shout.

Q. And would there be anything strange in an Indian shouting in this way when he saw that trouble was going on although he might not intend to take part in it or encourage it? Do you understand me? A. Yes.

Q. Well, would there be anything strange in that? A. No.

Q. So that this shouting could not mean, as a matter of course, at all events, it would not mean that he wanted to encourage the murdering that was going on? A. Well, that is the way the Indian gives himself courage—he shouts.

Q. Well, he would shout if he saw that being done, if he saw a murder being committed, for instance, he would shout whether he intended to stop it or to join in it, wouldn't he? A. He would shout another way if he intended to stop the murdering. He would not shout that way. He would shout to try and stop it.

Q. He would shout in either case? A. Yes.

Q. And you don't know any particular war-whoop? A. No.

Q. How long have you known the Indians? A. I have known them for years.

Q. A great many years? A. A great many years, yes.

Q. And you are familiar with their customs? A. Yes.

Q. Another thing—isn't it a fact that whenever there is excitement of any kind or for any reason, the Indian is sure to pick up his gun when he runs out? A. Yes.

Q. And it does not mean that he is going to shoot, necessarily? A. No.

By Mr. Scott :

Q. The war-whoop is a continued cry—is it not? A. Yes.

Q. Under what circumstances do they use it? A. Well, as I say, it is to encourage himself—encourage himself if he is excited.

Q. To do what? A. Well, if he is on the fight.

Q. If a man is going to play, he does not give the war-whoop, does he? A. No.

Q. Well, it is to encourage them to do what? A. Well, if he is on the fight.

Mr. Robertson.—The witness has said he knows no particular war-whoop.

Court.—Yes, he said that; he has not spoken of any whoop that he heard at all.

Q. Are Indians in the habit of shouting? A. Yes.

A. Under what circumstances? A. When they are dancing they shout; they shout any time. When they're dancing they shout.

Q. Did you hear any of the Indians crying out or shouting on that day, the 2nd April? A. No, I don't remember of it.

Q. Did you hear any of them crying out or shouting at any time after the 2nd April, when you were with them? A. Yes, when they were dancing.

Q. Was there anything peculiar in it? A. No, not that I know of.

Q. Well, how were they shouting, or were they shouting in the way that you always heard them shouting before—you say they always shout? A. Yes, just one shout.

Q. How did they make it; did they use the hand at all? A. No, they used the throat.

Q. I mean, did they put their hands up to their mouth when they are shouting? A. No.

Q. Did you ever see an Indian shouting that way? A. No.

Q. With his hand at his mouth? A. No.

MRS. CATHARINE SIMPSON, sworn—

Examined by Mr. Scott :

(Examined through the interpreter.)

Q. Where do you live? A. Fort Pitt just now.

Q. Where were you living on the 2nd April? A. At Frog Lake.

Q. Your husband is the clerk in charge of the Hudson Bay store at Frog Lake? A. Yes.

Q. Do you remember what happened on the 2nd April? A. Yes.

Q. What happened? A. There was murder committed there.

Q. Did you see any of the murders committed? A. Yes.

Q. How many? A. I saw one.

Q. Who was that? A. Indian agent Quinn.

Q. Any others? A. I saw another person fall there, a priest.

Q. Was there any trouble that day with the Indians? A. Yes, there was trouble, they pillaged.

Q. What Indians? A. From Big Bear's band.

Q. What did they pillage? A. Everything.

Q. Where, at Frog Lake? A. Yes.

Q. What did they do with the settlers at Frog Lake? A. They killed them.

Q. All of them? A. Not all.

Q. How many did they kill? A. I could not say for certain what number, but I think it must be nine.

Q. What became of the rest? A. I only know of two—two women.

Q. I am speaking of all the settlers, male and female, what became of the other settlers who were not killed, yourself among the number? A. The remainder that were not killed were taken to the Cree camps.

Q. By whom? A. It was through the Indians that we were all taken to the camp.

Q. How long were you kept? A. Two months.

Q. Were you kept as prisoners during that time? A. Yes, we were taken as prisoners.

Q. And how did you leave at the end of the two months? A. Those Indians that we were with parted from the others, at the time of the fight.

Q. Were you at Fort Pitt after you were taken prisoner; were you at Fort Pitt about the 15th or 17th April? A. No, I was not at Pitt.

Q. Do you remember the Indians going down to Fort Pitt about that time? A. Yes, I remember it.

Q. What did you do when they went down there? A. We remained in the camp.

Q. At Frog Lake? A. At Frog Lake.

Q. Do you know these prisoners? A. Yes, I know the whole of them.

Q. Do you remember seeing any of them at Frog Lake, on the 2nd of April? A. I saw them all there.

Q. You saw them all at Frog Lake? A. Yes.

Q. On the 2nd of April, the day of the killing? A. I don't think No. 5 was there.

Q. Any of the others? A. I could not say if the whole of them were there.

Q. How about the first one, Nan-a-sue? A. No, he was not there.

Q. No. 5, Nah-pace-is? A. I could not say positively for any others.

Q. Point out those that you are sure you saw at Frog Lake on the 2nd April?

Mr. Robertson.—She cannot say positively, and the Crown should not press her.

Mr. Scott.—I asked her in the first place if she saw any of these prisoners at Frog Lake, and she said she did.

Q. Can you say definitely whether you saw any of these prisoners at Frog Lake on the 2nd April, the day of the massacre? A. I saw Dog-Tail, No. 8; Oos-ka-task, No. 7, and No. 6.

Q. And any others? A. Those three that I mentioned, I am positive they were there, but for the others I could not say positively that I saw them there.

Q. I suppose you know all these prisoners? A. Yes, I know them all.

Q. Then the others that you have not named may have been present without your remembering? A. They might have been, but I might not have taken notice of them.

Q. Did you see all the prisoners in camp afterwards while you were a prisoner? A. Yes, I seen them there.

Q. Did you see all of them? A. The whole of them.

Q. How often? A. Every day while we were with them.

Q. Then you know that they were in the camp nearly all the time, or all the time while you were a prisoner? A. Yes, they were there all the time.

Q. Do you remember seeing any of them about that time, or what were they doing when they were in camp? A. They used to dance; they were dancing.

Q. What kind of a dance was it? A. I don't know what sort of a dance it was.

Q. Were they armed during the time they were in camp? A. Always armed.

Q. What were they doing on the day of the fight, or about the time of the fight? A. They had a dance in the evening.

Q. Did you see the fight? A. I saw firing. I saw and heard people firing, but I did not see anyone killed.

Q. Where was this? A. At Frog Lake.

Q. Did you see any firing at Frenchman's Butte? A. That day, at Frenchman's Butte, we were outside of the camp when we heard the first shot.

Q. Did you know there was going to be a fight that day? A. Yes, we knew.

Q. How did you know? A. The soldiers were approaching the Indian camp.

Q. Did you see them or did you hear about it? A. They got word that the soldiers were coming, and they were preparing to fight that day that they did fight.

Q. What preparations were they making for fighting? A. They were digging rifle pits and holes and putting up earth.

Q. Did you see any of these men working at the rifle pits? A. I could not say that any of them were there, because I did not go near to see them working at those. We were sitting up a piece one side

Q. These men that you saw at Frog Lake, Ka-ke-we-pahtow, what was he doing?
A. I saw him outside at the company's store there.

Q. Doing anything? A. No, I could not say that he was doing anything.

Q. Oos-ka-task? A. Oos-ka-task, I think, came to buy tea—came to the store to buy tea.

Q. Atimyo? A. I saw him inside of the store.

Q. Did you see any of them doing anything else? A. I saw them running from house to house.

Q. Were they carrying anything? A. I could not say that they had anything.

Q. Did you see them among the crowd that were killing the whites?

By Mr. Robertson :

Q. This is really going very far it seems to me. It should be, "where did you see them and what were they doing?" A. I could not say.

Q. When you say that you saw them running from house to house, do you mean you saw the Indians, generally, running from house to house, or do you mean any of these in particular? A. The people, Indians in general.

Mr. Scott.—Q. Did you see these people running from house to house; what did you see them doing; did you see these three men running from house to house?

Mr. Robertson.—Your Honor, really, this counsel has gone very far in leading this witness.

Mr. Scott.—I submit I have a perfect right to ask this question. I ask now did you see any of these three men running from house to house?

Mr. Robertson.—I object to the question as being a leading question.

Court.—This would be right enough. You first asked a question which brought that out, that she saw others, other Indians running from house to house—now, you may ask her, quite legitimately, if she identifies any of these prisoners as among these?

Mr. Scott.—It arises out of the cross-examination by Mr. Robertson.

Mr. Robertson.—Not at all, she is your own witness. I asked her if, when she spoke of Indians running from house to house, she referred to Indians in general or any of these in particular, and that is as strong as my learned friend could put it, himself, and she replied to me that it was people in general.

Court.—I should say that others running from house to house referred to Indians generally, including the prisoners. That is what would strike me, and then she is asked what does she mean by that, and she says she does not mean the prisoners.

Mr. Robertson.—That is it.

Court.—And then, Mr. Scott, I think, has a perfect right to say, does she mean that? He may ask her which is correct. Her statement which would include the prisoners or the qualified or reduced one which she gives to Mr. Robertson. I think he may ask her, in rebuttal, which of her stories is correct. The stories are inconsistent.

Mr. Robertson.—I maintain this, my learned friend had attempted to prove, by this witness, that she saw these prisoners or some of them running about from house to house. He had asked one question referring particularly to these prisoners, and then asked another merely using the pronoun "they," and in reply to his question: "Did you see them doing anything else?" she said she saw them running about from house to house, and to explain that, I asked her, when she said that, did she refer to the Indians generally, or any of the men in particular, and she replied, I refer only to the Indians generally, not to these men in particular. There is nothing inconsistent about it. My learned friend has no right to lead her after that, and to say that these particular ones were some of them.

Court.—She may be asked which she means.

Mr. Robertson.—I have already asked her the question, what she meant, and she has explained it.

Mr. Scott.—I want the jury to understand whether or not these prisoners were running about among the rest.

Mr. Robertson.—You should have brought that out in your examination in chief.

Mr. Scott.—I did bring it out.

Mr. Robertson.—Then you have it if you brought it out.

By the Court :

Q. Were these prisoners, or any of them there; and if so, which? A. Yes. Nos. 1, 4 and 5.

By Mr. Robertson :

Q. They were there running about, were they? A. No; they were not there at the fight.

By the Court :

Q. Were any of these prisoners among the Indians that were running about that day from house to house, among those that you speak of as running about? A. Nos. 7, 8, 9 and 2.

By Mr. Robertson :

Q. Where did you see No. 2 running from? A. I saw him running from the white people's house to my house.

Q. Where did you see No. 7 running from? A. I saw him there, but he was not running about.

Q. Where did you see No. 8 running about? A. He came running from the white man's house and went into the store, ran into the stores.

Q. When was that? what time of day was that? Was that while Mr. Cameron was there in the store? A. While Mr. Cameron was there.

Q. In the morning? A. It was not very early in the morning.

Q. But it was in the morning? A. Yes, it was in the forenoon.

Q. Was it before or after the killing? A. Before.

Q. No. 9, where did you see him? A. I did not see him running from any place, but he was standing outside at the house, there.

Q. When was it you saw No. 2 coming towards your house from the white man's house? Was it before or after the killing? A. I was so confused I could not say whether it was before or after the killing.

Q. Did No. 2 steal anything, to your knowledge? A. No; I could not say that. I did not see him.

Q. Did No. 8 steal anything, to your knowledge? A. I could not say that he took anything.

JOHN PERRY, sworn :—

Examined by Mr. Scott :

Witness.—On the 2nd April I was at Moose Creek, 20 miles beyond Frog Lake.

Q. When did you come into Frog Lake after the 2nd April. A. On Good Friday, I think it was, the 3rd April.

Q. What were you doing out at Moose Creek? A. Making timber logs.

Q. What did you come into Frog Lake for on that day? A. Well, I came in to go in the church, I thought, and at the same time to get some work done—some spikes to draw our logs with—by the blacksmith who was there.

Q. What did you find when you got there? A. The first thing I found after I got there was one Indian—when I came in the camp I saw one Indian, and I jumped off my horse and went to shake hands with him, and he got black and pale in the face; and Louis Goulet ran right for me, and said to me: What do you come here for? I am sorry to see your face here; all the white people are dead. And they swore—

Q. What did you do after Goulet spoke to you? A. I went to John Pritchard's tent.

Q. Why did you go to Pritchard's tent? A. Because Goulet told me to go there, and hide myself.

Q. Where was this tent? A. That was in Big Bear's camp.

Q. What did you find when you got there? A. I found a tent, pretty near the family. Two women were there. Mrs. Delaney bowed to me, but I did not answer. I tried to hide myself. Johnny Pritchard's wife told me to go away.

Q. What reason had you for hiding yourself? A. Louis Goulet told me the Indians swore to kill all the white men.

Q. Did you see anything there that led you to suppose that his statement was true? A. I saw two white women crying.

Q. Did you see any Indians? A. There were a few Indians around the other tent.

Q. What did Mrs. Pritchard do? A. She told me to go away from her tent, she did not want to see me in her tent.

Q. Where did you go to then? A. Louis Goulet—I went to an Indian William Claudio.

Q. You went to his tent? A. I went to his tent.

Q. And what did they do with you afterwards? A. He told me, I will be taking your horse, and when I go to Fort Pitt and kill the police at Fort Pitt I will give you your Canadian horses from there.

Q. That is what Claudio told you? A. Goulet told me.

Q. Did you hear him say that yourself?

By Mr. Robertson:

Q. Do you understand Cree? A. No, just a few words.

By Mr. Scott:

Q. Well, how long did you stay in the camp with the Indians? A. I guess 24th June we got into Fort Pitt. I stayed all the time with Mr. Maclean.

Q. Why did you stay there? A. I did not see any way for me to get away.

Q. Well, did they keep you there? A. They used to keep me there.

Q. Were you a prisoner? A. I think I was.

Q. Well, then, you remained with the Indians until sometime in June? A. 24th June, I think, I came to Fort Pitt.

Q. Were you at Fort Pitt about the 15th or 17th April? A. I was not there.

Q. You got into Big Bear's camp on the 3rd April? A. There was a lot of Indians there already then, the Big Bear and Bush Indians were altogether at that time.

Q. There were other Indians there besides Big Bear's band? A. Yes.

Q. How long did you remain there at Frog Lake, how many days? A. I could not tell.

Q. When did you first go down to Fort Pitt? A. I did not go to Fort Pitt only after they came and took the police themselves, and got back to Frog Lake again.

Q. Then you were not down to Fort Pitt when they took the police? A. No.

Q. And took the fort there—you were not down at that time? A. No.

Q. But then you went down afterwards, were you at Frenchman's Butte? A. Yes.

Q. At the time of the fight? A. Not at the time of the fight, but three miles away.

Q. Were you there at Frenchman's Butte the day before the fight? A. The day before the fight as near I can remember, we were at one couleée three miles farther than the regular Frenchman's Butte.

Q. Were there many Indians there the day before the fight, in the couleée where you were? Where was the main body of Indians on that day? A. As near as I can tell they were right there in that couleée.

Q. The larger portion I suppose were there? A. The biggest part of the camp. I did not notice that there was any missed. I thought they were all there together.

Q. At least you saw a large number, and you thought they were all? A. Yes, I saw a large tent.

Q. What were they doing on the day before the fight? A. Well, in the morning they moved from this bottom of the coulée up the coulée a little, and they began to dig pits.

Q. What for? A. Some holes in the ground, so they told me, to hide a woman and child, and a man went farther to dig some more.

Q. For what purpose? A. I understand —

Q. Where were they dug? A. I did not go myself.

Q. Who told you what they were for? A. The man that I was stopping with.

Q. Who was that? A. William (Claudio) Gladhue. He told me in French.

Q. What did he tell you they were for? A. He said, I want you to come and make a pit.

Q. For what? A. He did not tell me what for. He said, come and help us make a pit, and his wife said she would like to go herself, and his wife and another woman went on horseback, and I stopped there.

Q. Did you see them digging pits? A. No.

Q. Now do you know any of these men, the prisoners? A. I know two. No. 4 I don't know his name, and No. 7.

Q. Where did you first see these men after you came into the camp? Or did you see them with the Indians at all? A. I saw No. 4 at Frog Lake, the time the Indians had tents.

Q. When was that? I could not tell you what days it was.

Q. Was it after the 3rd of April? A. After the 3rd of April.

Q. Is that the first time you saw him? A. I seen him probably eight or ten days after I came into the camp.

Q. At Frog Lake? A. At Frog Lake, of course. I remember seeing him.

Q. This man No. 7, where did you first see him, on or after the 3rd of April? A. I am not sure.

Q. Did you see any of the others with the band who had you prisoner? A. I might, but I don't know them. They are not dressed the same as they were at that time.

Q. No. 4, did you see him doing anything at any time. A. I seen him watching the dance lodge. I saw him as a watchman at the door of this dance lodge.

Q. What was the dance, do you know? A. I don't know. He had a hammer or sometimes he had a stick in his hand, to keep any young one from bothering any one that was dancing.

Q. Was that the only thing that you recollect seeing him do? A. Yes.

Q. No. 7, what did you see him doing, or did you see him doing anything? A. I did not see him doing anything, only walking around in the camp.

Q. How many times did you see him? A. I could not tell how many times. Sometimes I might have seen him two or three times on Saturday, and sometimes one or two days without seeing him at all.

Q. Did you see any of them about the time of the Frenchman's Butte fight? A. No. 4, I saw coming through the camp with the Indian I was stopping with. I seen him pass a couple of times. He went towards John Pritchard's tent and came back again, and went towards the rifle-pit then they were digging. We were making rifle pits too at the same place we were camped.

Q. What pits did you see him going towards? A. He was going on the farther side of the camp where those other men were digging rifle pits.

Q. How do you know they were rifle pits? A. Because William Gladhue told me. He came and asked me to go there.

Mr. Robertson.—That is not evidence.

By Mr. Scott:

Q. Was that on the day of the fight? A. That was the day before?

Q. Was he carrying anything? A. Not that I know of.

Q. Had he any arms? A. I did not see no arms on him that day.

Q. Can you say that he had no arms that day? A. No, I can't say it.

- Q. You mean you did not notice them? A. I did not notice.
- Q. No. 4, did you see him armed that day? A. I don't remember.
- Q. Well, about these rifle pits, the only information you have about them is that Gladhue told you there were rifle pits there? A. They made us make some holes right where we were camped. They called that a rifle pit too.
- Q. Was it at the bottom of the coulée or on the side? A. On the side of the coulée.
- Q. They were digging some holes there? A. They made me dig some too.
- Q. Did you hear any of them say what they were for, besides William Gladhue? A. Well, William Gladhue and his wife and some other one there said that they were going to make those holes to hide themselves—the women and young ones.
- Q. Do you know whether any other pits were made besides those that were for the women and children to hide in? A. The biggest part of the women, and children, young ones, all had pits to hide themselves.
- Q. Do you know of any others that were dug besides those that were to hide the women and children? A. I did not see it myself, I only saw all the men taking axes and picks to go and make some.
- Q. You saw men, that is Indians? A. Indians, and some women, with pick and axe and pick and shovel.
- Q. Which way did they go; were they going up the side of the coulée? A. Up the side of the coulée.
- Q. You did not see what they did? A. I did not see what they did.
- Q. Did the fight take place there at that coulée? A. Well, the first time I heard—the first shooting I heard—I was about a mile and a half or two miles from there.
- Q. But you don't know whether the fight took place there or not, in that coulée, around that coulée? A. I don't know anything, only what I heard from the half-breeds and Indians in the Indian camp, when they came in the camp.
- Q. Were the Indians you heard this from in the same band with these prisoners? A. They belonged to the same band I thought.
- Q. In the same camp? A. We were camped pretty near always together.
- Q. And you say you heard from some of those Indians something about the fight? A. Yes.
- Q. What did you hear?
- Mr. Robertson.—That is not evidence.
- Court.—They're Indians of the same band.
- Mr. Robertson.—The mere fact of their being Indians of the same band does not make evidence against these prisoners. Let him show they were conspirators, and then statements made by co-conspirators.
- Witness.—Some were talking to Mr. Maclean and us all, they were talking before everyone, we were camping.
- Q. What do you mean by everyone; were there other Indians? A. All the Indians that were there, and the prisoners.
- Q. What did you hear them say? A. "Police, police," that is the first thing I heard, the Indians said that in Cree, "they're coming," I understand that in Cree too, and they began to fight. All the Indians turned right back from there and went towards the camp, I did not see them go right to the fight, I saw them leave the pit.
- By Mr. Robertson:*
- Q. When you say all the Indians went, you mean the great majority of them went? A. The biggest part of the Indians that I used to see in the camp.
- Q. But you could not say that every single Indian that was there went? A. No, because I did not see the whole of them.
- Q. As matter of fact, don't you know that a great many of them did not go at all but went back? A. They might. (This is interpreted to the prisoners.)
- Witness, in answer to the court.—One whose name I don't know came to the camp, and told Mr. Maclean and Mr. Maclean told me right off.
- Q. Did you understand him? A. I understood him, "police, police," and "kill."

HENRY HALPIN, sworn :—

Examined by Mr. Scott :

Q. Where were you on the 2nd April? A. I was at Coal Lake.

Q. How far is that from Frog Lake? A. Between thirty and forty miles.

Q. What were you doing there? In charge of the post of the Hudson Bay Company there.

Q. When did you come into Frog Lake after the 2nd April? A. I got in on the Sunday following, whatever day of the month it was.

Q. How did you happen to come in on that day? I was taken prisoner by the Indians.

Q. Do you know what Indians? A. Indians under Big Bear.

Q. Of Big Bear's band? A. Of Big Bear's band, yes.

Q. At Coal Lake? A. Yes, I was taken prisoner at Coal Lake.

Q. And were brought into Frog Lake? A. Yes.

Q. And you got there on the 5th, and how long did you remain there; were you detained as a prisoner? A. Yes, I was sixty-two days a prisoner.

Q. Of the same band? A. Yes.

Q. Did you go down to Fort Pitt about the 17th or 15th? A. Yes.

Q. How? A. The Indians took me down.

Q. What had occurred there? A. Well, there was a sort of a little skirmish there with the police, and Fort Pitt was taken and looted.

Q. And what became of the people who were in the fort? A. Some of them were taken prisoners by the Indians, and the rest of them—the police went away.

Q. And others who were in the fort? A. Were taken prisoners.

Q. Were they detained? A. Yes.

Q. How long? A. I don't know how long; they were detained up to the time I left.

Q. Did you see the looting of Fort Pitt? A. I was on top of the hill when it was going on.

Q. You saw the Indians sacking the place? A. I did not see them; I knew they were doing it.

Q. How do you know that? A. Because they went down to Fort Pitt with that intention when they did leave.

Q. How do you know that? A. I saw a good many of the Indians with the stuff in their possession, after they had done it.

Q. Well, did you hear any of them say anything about it? A. I heard lots of them talking about it.

Q. To you or among themselves? A. Among themselves, and to me too.

Q. What were they saying, as to their intention, when speaking among themselves? A. Well, that they were going to try and get what goods they could get, and try and be well off for a while.

Q. Did they say where they were going to get the goods? A. They started down to Fort Pitt for the goods when they left.

Q. Was there anyone killed at Fort Pitt that you saw? A. Yes, policeman Cowan.

Q. Did you see him killed? A. Yes, I saw him fall off his horse when he was shot.

Q. By whom was he shot? A. Shot by a man who was killed at Fort Pitt.

Q. And was that man alone when he was shooting, or were there others? A. No; there was a whole crowd of them shooting.

Q. Where did the shooting occur? A. Right on top of the hill, at Fort Pitt.

Q. Many Indians there? A. Two hundred or three hundred.

Q. The main body were there, near the place where Cowan was killed? A. Yes.

Q. They sacked Fort Pitt, and where did they go after sacking it? A. Took us back to Frog Lake.

Q. And how long did you remain there? A. At Frog Lake, till about the 5th May.

Q. And where did you go then? A. Down to Fort Pitt again.

Q. With the main body? A. Yes; with the whole camp.

Q. And from Fort Pitt where? A. Travelled all about the country, anywhere at all that they wanted to take us.

Q. Were you in the neighborhood of Frenchman's Butte the 28th of May? A. I got away that morning.

Q. You mean you escaped? A. I escaped.

Q. Any trouble there on that day or the day before? A. There was some shooting going on. I could hear the firing going on.

Q. Did you know what it was about? A. I had a very good idea of what it was about.

Q. Did you hear from the Indians what it was about? A. I heard from all the Indians talking about it.

Q. You heard them talking about it to whom? A. Amongst themselves.

Q. That is where you gained your information? A. Yes.

Q. About what the trouble was about; what was the information you gained? A. Well, that the soldiers had come; the policemen had come, and they were going to fight them, and try and get the prisoners out of their hands.

Q. And did you hear the Indians say anything as to what they intended to do? A. Yes, I heard they were going to fight.

Q. Do you know whether or not they did fight? A. They did fight.

Q. Did you see them? A. I did not see them fighting.

Q. How do you know they fought? A. I could hear them. For the most part of the time I was only 500 or 600 yards from where they were fighting.

Q. That was on the 28th May? A. Yes.

Q. What were they doing on the 27th? A. Well, the 27th, we were employed digging pits.

Q. What kind of pits? A. Pits to keep out of the road of shell or bullets or anything that wanted to come into the camp.

Q. Where were they? A. Just over the hill at Red Deer Creek. There was a creek and a hill, and then we were back of rising ground, and behind that rising ground.

Q. You were not in the coulée of the Red Deer? A. Yes, I was right in the coulée of the Red Deer. That is what I am alluding to.

Q. Were these pits on top of the hill or were they not, or whereabouts? A. Some of them on top of the hill. The pits where we were, for the prisoners and women were back over the side of the hill.

Q. How do you know there were rifle pits on top of the hill? A. Because I saw them.

Q. Do you know by whom they were made? A. No, I could not pick out the special person.

Q. Do you know whether they were made by—? A. Made by Indians.

Q. How do you know? A. Because I heard some of the headmen—Wandering Spirit among others—come and tell his young men to come and do it.

Q. Come and do what? A. Dig pits.

Q. Did he say what kind of pits? A. No, he did not.

Q. Then you saw these pits up there afterwards? A. Yes.

Q. This was the day before the fight? A. Yes.

Q. Do you know whether they were making any preparations besides digging the pit; were they doing anything else? A. There was a sort of skirmish that day in the afternoon about 3 o'clock. We could hear cannons fired at them three times at a few Indians outside.

Q. Where were you at this time? A. In digging pits in the camp.

Q. Do you know any of these men? A. I know their faces, all with the exception of one.

Q. Which one is it you don't know? A. No. 5.

Q. Did you see them while you were a prisoner in that camp? A. Yes.

Q. Did you see No. 5 at any time? A. No, I don't recollect seeing that man at all.

- Q. You don't remember his face? A. No.
Q. Where did you see the others? A. In the camp.
Q. When? A. During the time I was prisoner.
Q. More than once? A. Yes, I saw them frequently.
Q. Have you any means of telling when you first saw them in the camp after your arrival, and when you last saw them? A. I don't remember when I saw them first; take them all one after another, I could not tell exactly what day I saw them on, but I saw them frequently during all the time in the camp.
Q. Then they formed part of the camp I suppose? A. Yes.
Q. You saw them frequently? A. Yes.
Q. Have you any recollection of anything done by any one of them? A. No, I have nothing special against any one of them.
Q. Do you remember having seen any of them on the 27th or the 28th of May? A. Yes, I think there was the first and second there; I think I saw them the day before I left.

By Mr. Robertson:

- Q. That was the day before the fight? A. Yes.

By Mr. Scott:

- Q. What were they doing? A. Just walking through the place where we were making rifle pits.
Q. What did they do when they were walking through there, or did they do anything? A. The only thing I saw them do there was eating.
Q. Were they armed? A. I did not pay particular attention to whether they were or not; I could not swear at the time I saw them whether they were armed or not.
Q. Do you remember having seen any of them at Fort Pitt on the 16th or 17th? A. Yes, I do.
Q. Which? A. The 7th I remember seeing him, and the first one and the sixth too.
Q. You saw those there that day? A. Yes.
Q. What were they doing? A. Walking about on top of the hill.
Q. Did you see them at the fort? A. No, I did not; I was not at the fort that day myself.
Q. Was it before or after the fort was taken that the Indians got possession of it, of the fort, you saw them walking about on top of the hill? A. Before, and after, too.
Q. Would you swear whether or not they were down at the fort? A. I would not swear they were, and I would not swear they were not.
Q. But you saw them in that neighborhood on that day? A. Yes.
Q. Did you see them armed at any time, any of these men? A. No, I can't pick out any one personally, and say that I can remember at any time seeing them armed; they were nearly all armed then; I suppose they were armed.
Q. What was the condition of the camp as to arms? A. The condition of the camp—everybody that had arms kept them by them.
Q. They were an armed party? A. Yes, they were.
Q. Do you know anything about the Indian customs? A. Yes, a little.
Q. Do you know what a war-whoop is? A. No, I don't.
Q. You don't know anything about it? A. No.
Q. Are the Indians in the habit of shouting? A. Yes, they generally—I heard lots of shouting.
Q. Under what circumstances? A. Almost any circumstances.
Q. Then the fact of an Indian shouting is not to be taken very strongly against him? A. No, I don't think so.

By Mr. Robertson :

Q. How long have you been acquainted with the Indians and their customs ? A. About fourteen years.

(Interpreted to the prisoners.)

WILLIAM TOMPKINS SWORN :—

Examined by Mr. Scott :

Q. You live at Carlton, I understand ? A. Yes.

Q. And you are interpreter for the Indian Department ? A. Yes.

Q. You were taken prisoner near Duck Lake on the 18th March last, were you not ? A. Yes, at Batoche.

Q. By whom ? A. Riel and his followers.

Q. What did his following consist of, what number ? A. Four to five hundred.

Q. In what state were they ? A. Rebellion.

Q. They were in rebellion ? A. Yes.

Q. Armed ? A. Yes.

Q. Do you know what their object was ? A. As far as I can understand they wanted to have a new government.

Q. Was there any fighting ? A. Yes.

Q. With whom ? A. With the police at one time.

Q. Where ? A. At Duck Lake and Fish Creek, with the troops under General Middleton and at Batoche also.

Q. On what date was Batoche ? A. 12th May.

Q. Were you a prisoner up to that time ? A. Yes.

Q. On the 18th March ? A. Yes.

Q. Held by these men ? A. Yes.

Q. Any people killed ? A. Yes, quite a number killed.

Q. Where ? A. There were nine that I took off the field at Duck Lake.

Q. There were nine killed at the Duck Lake fight, when was that ? A. 26th March, nine volunteers—I don't know how many police were killed.

Q. Were there any other prisoners besides yourself ? A. Yes.

By Mr. Robertson :

Q. How far are Duck Lake and Batoche from Frog Lake ? A. Four hundred miles, I should think.

Q. How far from Fort Pitt ? A. I could not say how far it is. I don't know the distance from Pitt to Frog Lake.

By the Court :

Q. You have probably not been up there at all have you ? A. No.

By Mr. Robertson :

Q. What distance is it commonly reputed to be from Duck Lake and Batoche to Fort Pitt. A. Well, there is different opinions on that. I have heard it said it is 400 miles, it is 200 or 250, I don't know exactly.

Q. It is a long distance at all events ? A. Yes, quite a distance.

(Interpreted to prisoners).

Case for the Crown here closed.

Mr. Robertson for the defence says he has no witnesses.

ADDRESS OF THE CROWN COUNSEL.

Mr. Scott.—May it please your Honors, and gentlemen of the jury. You have now heard all the evidence that we have been able to gather to throw light upon charges laid against the prisoners. You have observed that all the evidence we could gather is from the prisoners who were in Big Bear's camp from the 2nd day of April up to

about the 28th May, some of them after that date. Now, as I said in my opening address I doubted whether we could from any of the evidence that we have collected in this case, bring home to any one of these prisoners any glaring outrage in connection with the rebellion, and as it turns out, the evidence has not disclosed anything of that kind. It has disclosed this much, however, that these men were present in the camp of Big Bear and other bands who were associated with him, and that those bands were in open rebellion against the Government. That rebellion commenced the 2nd April at Frog Lake, at which the settlement there was taken possession of by Indians—perhaps by these. It is not shown conclusively that these Indians took any part in that outrage, but it is shown that it was taken by Indians with whom they were living and acting.

Afterwards at Fort Pitt on the 17th April, that place was attacked and looted, and a policeman was killed there by this same Indian band, and then on the 28th May at Frenchman's Butte, a battle ensued between the mounted police and the soldiers, the forces of the Government on one side, and these same Indian bands on the other. Now, it is possible that at the massacre at Frog Lake, that if these men had severed their connection with the other Indians who were guilty of that massacre on that occasion, there would have been no charge against them, but they must have known at that time—an Indian must know as well as anyone that it is against the law to kill any person, that if he continues to associate with people whose avowed object is the killing of unoffending citizens, and travels around the country committing outrages of a like nature, it is scarcely proper that they should escape punishment. An Indian has got to be taught as well as any other person that he must not associate with characters of that kind, and that if he does associate with them, and becomes to a certain extent a party to those transactions, that he must be punished for them accordingly. Those who have committed any of the outrages, those who have assisted, and who have been secured by the government will be punished in their proper course for the crimes they have committed; but having been part of which, it is not safe, I submit to your Honors and gentlemen, that these men should be allowed to go entirely free, because if these men are to escape punishment, then the country will not be safe at any time. These men being led to believe that although they may join a larger body of men who are committing outrages of that kind and taking part in them, that unless they take a leading part and commit some outrages themselves, they will escape and be allowed to go free again, then we will have these outrages in all parts of the country, and there will be no safety for the settlers.

There is no question but what the offence these men committed, although perhaps, a light offence as compared with the outrages some of the others committed, is an offence against the law, and a punishment should be meted out. Perhaps I am anticipating in saying this, I assume, and I think you will assume that the evidence shows conclusively that although some of these prisoners—it is not necessary for me to distinguish whom, were at Frog Lake—it is shown conclusively that a short time after the massacre those who were not there on that occasion continued with the band and remained with them at least up to the time of the Battle of Frenchman's Butte, that is shown conclusively by the evidence. It is shown also that that band was in open rebellion against the Government, that they were travelling around the country committing depredations of all kinds and were in a state of open war, and these men were with them, and that is the offence with which they are charged; that they were conspiring with others to levy war against the Government. I think his Honor will tell you that that conspiracy is sufficiently proved if it is shown that these men were acting in conjunction with those who were actually levying war against the government.

Mr. Robertson.—I have nothing to say, your Honor.

JUDGE'S CHARGE.

Court.—Gentlemen, these nine unfortunates before you are in your hands to say whether they should be left free or subjected to such punishment as the court may

see fit to award them. The offence which is charged against them is one of a similar nature to some that have already been tried in this court room, and probably the wording of it is so well rooted upon the minds of everyone of the community and everyone who has heard it, that it would be quite unnecessary for me and a waste of time, with no good result, to detail to you fully what forms the offence. This much it is my duty to tell you, that they are charged under what is called the Treason-Felony Act, with having been assembled and assisting in rebellion against the Government. In our form of proceeding, there are two methods by which these prisoners could be tried; one would be a summary trial before myself, the other, as we see it to-day, according to the election of the prisoners, who elect how they shall be tried. They have said they prefer being tried by a jury, and that is the purpose for which you are empanelled.

Now, all I think I shall tell you will be this, that it is not absolutely necessary, in order to constitute this crime, that a man should be seen carrying a rifle or a bayonet or a sword. That is not necessary at all. If a number of men band themselves together. The law I am now reading to you is so *apropos* and meets the case in a few words, meets every case of the sort in a few words, and I cannot, I think, do better than give you the words of the highest court of the land in a series of very similar cases:

"If a number of men band themselves together for an unlawful purpose (now the unlawful purpose which is charged here is rebellion,) and in pursuit of their object, commit murder, it is right that the court should pointedly refuse to accept the proposition that a full share of responsibility for their acts does not extend to the surgeon who accompanies them to dress their wounds, the clergyman who attends to offer spiritual consolation, or to the reporter who volunteers to witness and record their achievements, the presence of anyone in any character aiding and abetting or encouraging the prosecution of the unlawful design, must involve a share in the common guilt."

Now, there are two points that I wish to draw your attention to. You have heard the evidence here. Taking it as an axiom that no man should be brought in guilty unless the conclusion is brought irresistibly home to the minds of the jury, that the evidence has established guilt against him, the first question which I want you to ask yourselves, and I want you to answer yourselves, is, was there a state of rebellion? That is one thing. If there was a state of rebellion against the Government, were these men aware of it? If they were aware and cognizant of it, then did they by their presence in any capacity, did they aid and abet? Now, those are the questions. If you find that they did, if you cannot draw any other conclusion, irresistibly, as I say, come to that conclusion, then the verdict should be "guilty." If, on the other hand, you fall short of an absolute conclusion upon this evidence that they are implicated, then you ought to say "not guilty." Now, it may be that instead of finding them all involved, they are not all involved. If that should be the case, you will recollect it should be your duty to say which of them are so involved. If none are, then it will be a general verdict of acquittal. If some are and others not, if you think the evidence brings home guilt to some and not to others, why name those some. They are numbered as they stand from left to right, and you can, in returning and giving me the result of your deliberations, either give the number or the name.

You will now retire and consider, and all that I ask you is to recollect and bear in mind that they are entitled to the same consideration, notwithstanding they are Indians, they are entitled to the same consideration at your hands as if they were white.

Jury retire at 3.30 p. m., and return in one hour with a verdict of "guilty," five of the jury adding "mercy."

Court adjourned to pass sentence on 25th instant.

QUEEN vs. POUNDMAKER.

CANADA,
North-West Territories }

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario and Dominion of Canada, chief of police, taken the fifteenth day of August, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:—

That Pe-to-cah-han-a-wa-win, otherwise called Poundmaker, not regarding the duty of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear towards our said Lady the Queen, on the second day of May, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers other evil disposed persons to the said Alexander David Stewart unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen within Canada, in order, by force and constraint, to compel her to change her measures and counsels, and the said felonious compassing and imagination, invention, device and intention then feloniously did express, utter and declare, by divers overt acts and deeds hereinafter mentioned, that is to say, in order to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Pe-to-cah-han-a-wa-win, otherwise called Poundmaker, afterwards, to wit, on the twenty-seventh day of March, in the year aforesaid, and on divers other days and times, as well before as after that day, at and near the locality called Battleford, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further, to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Pe-to-cah-han-a-wa-win, otherwise called Poundmaker, afterwards, to wit, on the twenty-ninth day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Out Knife Hill, in the said North-West Territories of Canada, together with certain other evil disposed persons to the said Alexander David Stewart unknown, feloniously and wickedly did express, utter and declare his said felonious compassing, imagination, invention, device and intention by the feloniously publishing a certain letter or writing addressed to one Louis Riel, who was then with certain other evil disposed persons to the said Alexander David Stewart unknown, in open rebellion and insurrection against our said Lady the Queen, in the said North-West Territories of Canada, in the words following, to wit:—

“ CUT KNIFE HILL, 29th April, 1885.

“ TO MR. LOUIS RIEL :

“ I want to hear news of the progress of God's work. If any event has occurred since your messengers came away, let me know of it. Tell me the date when the Americans will reach the Canadian Pacific Railway. Tell me all the news that you have heard from all places where your work is in progress. Big Bear has finished his work ; he has taken Fort Pitt. If you want me to come to you let me know at once, he said, and I sent for him at once. I will be four days on the road. Those who have gone to see him will sleep twice on the road. They took twenty prisoners, including the massacre at Fort Pitt. They killed eleven men, including the agent, two priests and six white men. We are camped on the creek just below Out Knife Hill, waiting for Big Bear. The Blackfeet have killed sixty police at the Elbow. A half-breed who interpreted for the police, having survived the fight, though wounded, brought this news. Here we have killed six white men. We have not taken the

barracks yet, but that is the only entire building in Battleford. All the cattle and horses in the vicinity we have taken. We have lost one man, Nez Percé killed, he being alone, and one wounded. Some soldiers have come from Swift Current, but I do not know their number. We have here guns and rifles of all sorts, but ammunition for them is short. If it be possible, we want you to send us ammunition of various kinds. We are weak only for the want of that. You sent word that you would come to Battleford when you had finished your work at Duck Lake. We wait still for you, as we are unable to take the fort without help. We are impatient to reach you. It would give us—encourage us much to see you, and make us work more heartily. Up to the present everything has gone well with us, but we are constantly expecting the soldiers to visit us here. We trust that God will be as kind to us in the future as he has in the past. We, the undersigned, send greeting to you all.

" POUNDMAKER.

" CO-PIN-OU-WAY-WIN.

" MUS-SIN-ASS.

" MET-TAY-WAY-IS.

" PEE-YAY-CHEEW.

" When this reaches you, send us news immediately, as we are anxious to hear the news. If you send us news, send as many men as possible."

He, the said Pe-to-cah-han-a-wa-win, otherwise called Poundmaker, then well knowing that the said Louis Riel and the said other evil-disposed persons were then in open rebellion and insurrection against our said Lady the Queen.

And further to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Pe-to-cah-han-a-wa-win, otherwise called Poundmaker, afterwards, to wit, on the second day of May, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Cut Knife Hill, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil-disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm, and further to fulfil, perfect and bring into effect his felonious compassing imagination, invention, device and intention aforesaid, he, the said Pe-to-cah-han-a-wa-win, otherwise called Poundmaker, afterwards, to wit, on the fourteenth day of May, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that day, at or near the place called Eagle Hills, in the North-West Territories of Canada aforesaid, with force and arms, wickedly and feloniously did assemble, meet, conspire and consult with certain other evil-disposed persons to the said Alexander David Stewart unknown, to seize and take possession by force certain goods and merchandise belonging to Her said Majesty the Queen, which were then being carried and transported from the locality known as Swift Current to the locality known as Battleford, in the said North-West Territories aforesaid, for Her said Majesty, and for the use and benefit of Her said Majesty, in contempt of our said Lady the Queen and her laws, to the evil example of all others in the like case offending against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

Sworn before me the day and year first above
mentioned, at the town of Regina, in the
North-West Territories of Canada.

A. D. STEWART.

HUGH RICHARDSON,

A Stipendiary Magistrate in and for the said North-West Territories.

And take notice, that you have the option of being tried before a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate, in a summary way, without the intervention of a jury. Which do you elect?

MONDAY, 17th August, 10 a.m.

Before Mr. Justice Richardson and Dr. Dodd, J.P.

The Queen against Poundmaker.

Messrs. B. B. Osler, Q.C., T. C. Casgrain and D. L. Scott appear as counsel for the Crown.

Mr. F. Beverley Robertson counsel for prisoner, with Mr. J. H. Benosh.

Mr. Peter Hourie sworn as Cree interpreter.

Indictment read to the prisoner, and interpreted while it is being read.

Clerk to prisoner.—Are you "guilty" or "not guilty"? Prisoner says he is "not guilty."

Clerk.—Are you ready for your trial?

Mr. Robertson.—Quite ready.

Clerk to prisoner.—These good men that you shall now hear called are those that are to pass between our Sovereign Lady the Queen and you. If, therefore, you will challenge them, or any of them, you must challenge them as they come to the book to be sworn, and before they are sworn, and you shall be heard.

A jury of six is now called and sworn.

Clerk reads indictment to the jury. On this charge the prisoner at the bar has been arraigned, and upon the arraignment has pleaded "not guilty." Your duty, therefore, is to enquire whether "guilty" or "not guilty," and hearken to the evidence.

Mr. Scott.—Gentlemen of the jury, the charge against the prisoner which you have just heard read is for an offence of a very serious nature, but you will gather from the evidence that will be produced in this case on the part of the Crown that it is not the most serious offence that could be charged against him, and fully supported by the same evidence. It has been thought advisable, however, that the charge for the more serious offence of treason should be preferred only against the one who was known to be and who has been proved to be the instigator and leader of the late rebellion in the north, and that those who were merely followers of that leader should be charged only with the lesser offence of treason-felony, which is the charge now preferred against the prisoner. In speaking of the rebellion in the north, I am speaking of a matter of common notoriety, and one in which the events and circumstances connected with it are doubtless well known to you all; but I may here tell you that it is your duty to put aside from your minds altogether any knowledge or information as to the fact of the rebellion having existed in the north or of the events and circumstances connected with it or of the prisoner's complicity in it; and in disposing of this case to consider only such evidence as may be produced before you to-day, relating to that rebellion and to the circumstances connected with it. We will, however, prove that there was a rebellion in the north; that about the 18th March last, in the neighborhood of Batoche and Duck Lake and the South Saskatchewan, a large body of half-breeds and Indians, under the leadership of Louis Riel, broke into open rebellion against the Government, and with the avowed intention of overthrowing the Government's power in that part of the country and setting up a Government in opposition to it; that about the 25th March last, these rebels met a force of mounted police and volunteers at Duck Lake, under the leadership and command of Major Crozier; that an engagement ensued, and that a large number of volunteers and policemen were killed and wounded during that fight; that afterwards on several occasions these same rebels met forces of the Government under General Middleton and fought them, and that a large number of lives were lost and a good many people wounded; and that these rebels were in open and active rebellion against the Government from the 18th March till the 12th May, when they were defeated by the forces under General Middleton, and Riel himself, the leader, was taken prisoner and the prisoners taken by him were released. I forgot to mention in the first place that the first open act of rebellion on the part of those rebels was to seize and plunder certain houses and stores of the settlers in that part of the

country who were not in sympathy with them and make other settlers prisoners, and all that happened on the 18th March. That was the first open act on the part of the rebels in that vicinity.

That is a history of the rebellion in that part of the country, so far as it relates to the case against the prisoner. The prisoner is a Cree Indian, the chief of a band of Crees, who are living under the Government's protection and occupy a reserve situated about forty or fifty miles west of Battleford. They were residing peaceably on their reserve until about the end of March last, when the prisoner, with his band left the reserve and marched towards Battleford. On their way to Battleford they were joined by a number of other bands under different chiefs, who were settled upon reserves in the same neighborhood. These other chiefs became subservient to the prisoner, and he was recognized as the leader and chief of the whole body of these Indians. They went to Battleford, reaching there on the 29th and 28th of March. On their approach, the residents of the town (settlers) became alarmed and withdrew into the police barracks there for protection, and the Indians then sacked and plundered the business portion of the town of Battleford and the Government buildings in the vicinity. For a reason, which appears in the letter which you have just heard read, or possibly for that reason, they did not attack the fort, but they retired from the vicinity of Battleford and went to a place called Cut Knife Hill, which, I understand, is about forty or fifty miles west of Battleford. There they remained until some time after the 2nd of May. Sometime during the month of April, some messengers from the rebel camp at Duck Lake and Batoche arrived at the prisoner's camp at Cut Knife. They brought with them a letter from Louis Riel and his so called council, which was handed to Poundmaker, and read to him, interpreted to him in his own language. This letter is written in French, but I have a translation, which I will now read to you. (Mr. Scott here reads the letter referred to, and set out in full in paper annexed to this.) That is a translation of the letter that was handed to Poundmaker and read to him. Sometime after the receipt of that letter, the prisoner, with a number of others who were then in the camp with him, presumably his head men, dictated a letter, presumably in reply to the letter I have just read—the letter which was read to you in the charge. However, I will read it again, as it follows in the natural sequence. (Mr. Scott here re-reads letter referred to in the indictment.) After this letter was dictated by the prisoner and the others, it was handed to one of the rebel messengers from Batoche, who was then in the camp, for delivery to Louis Riel. On the 2nd of May, Col. Otter, in command of a force of Government troops, moved out from Battleford, apparently with the intention of reducing the prisoner and his band and the other bands to subjection. They came up to the prisoner and his band to the camp at Cut Knife Hill, and a fight ensued there. The troops were opposed by the Indians. The prisoner himself was seen on the battle-field apparently directing the movements of the Indians against the troops, and was driving about from one place to another in a buck-board, I understand. Col. Otter withdrew his troops and returned to Battleford, leaving the prisoner and his band in possession of Cut Knife. They remained there for some days after that fight, but finally the whole band, under this prisoner's command, moved towards Duck Lake, that is, they passed apparently south of Battleford and went along in an easterly direction, which is the direction leading to Duck Lake. About the 14th May, while on their way to Duck Lake, they attacked a number of transport teams which were conveying Government stores from Swift Current to Battleford for the use of the troops there. They seized and plundered these waggons and the stores that they contained, and made prisoners of the teamsters; and then, as I understand, moved on towards Duck Lake. However, shortly after the attack on these teams—transport teams—and after the rebels had been defeated by General Middleton at Batoche, the prisoner, with his men, came in and surrendered to General Middleton at Battleford.

Now, you will understand that under this charge, as laid, it is not necessary to prove that the prisoner actually levied war against the Queen—against the Government. It is only necessary to prove that he conspired with that intention, and that

he designed and intended to levy war. We are going further than that—we are going to show that on these three occasions I have mentioned he actually levied war, that is, first, at the sacking of Battleford, 27th March; second, in opposing the Government troops at Cut Knife Hill, 2nd May; and third, in the attack and seizure of the transport teams, and the taking of the prisoners there. That is not necessary, as I said before, but the letter that I have just read to you, which he dictated to Louis Riel, is evidence of his intention and design to levy war; but the acts which I have just mentioned to you are the very best evidence of such an intention, because, what better evidence could you have of his intention to levy war than the fact that war was actually levied by him?

I will now proceed to call the evidence for the prosecution.

ROBERT JEFFERSON, sworn:—

Examined by Mr. Scott:

Q. Where do you live, Mr. Jefferson? A. I live in Battleford, or near Battleford.

Q. Whereabouts near Battleford, at what place? A. Eagle Hills.

Q. What is your occupation? A. I was for six years a schoolmaster on Eagle Hills reserve?

Q. What was your occupation in March last? A. I was farm instructor on Poundmaker's reserve.

Q. You were farm instructor on the prisoner's reserve in March last? A. Yes.

Q. Then you were living on his reserve? A. I was living there.

Q. You know the prisoner, of course? A. I know him.

Q. Did you see him on his reserve in March last? A. I did.

Q. Up to what time was he there? A. Up to the morning they went away.

Q. When was that. A. It would be about the 26th, I think. I would not be sure whether it was the 25th or 27th.

Q. He went away; was anyone with him? A. I did not see them going away, but he said he was going. He said he was not going to ask anybody to go, but he would not tell them to stop if they were going with him.

Q. He went away himself, that is what he said? A. Yes.

(This is now translated in Cree to the prisoner.)

Q. Where did you next see him after he went away?—A. I think it would be on the last day of March.

Q. Where?—A. At the creek, at Cut Knife Creek, that is about a mile from the house.

Q. Is that near Cut Knife Hill?—A. It is about 2 or 3 miles from it.

Q. At the Creek near Cut Knife Hill about the last of March?—A. Yes, about the last day of March I think it would be then, I would not be sure, it might have been the 1st day of April.

Q. Who were with him at that time?—A. His brother Yellow Mud.

Q. There was more than one or two men with him?—A. I beg your pardon, there was not, it was in the tent I saw him next.

Q. Did you see any other Indians there?—A. In the tent?

Q. No, camped around him?—A. Oh, yes, there was all the band camped around there.

Q. All his own band were with him, women and children as well?—A. Women and children as well.

Q. Then all his band had moved off their reserve?—A. It was still on their reserve, but away from where they were before.

By the Court:

Q. Away from the settlement? A. Away from the houses. Yes.

By Mr Scott:

Q. Away from where they usually lived, all the band were there? A. I think so. I could not say. I did not go out of the tent.

Mr. Robertson.—I must ask my learned friend not to put words into the witness' mouth, he can ask who was there and how many were there, but he is not to tell him he wishes to say they all were there. Mr. Scott has pressed it two or three times.

Mr. Scott.—I suspected there were others there than Poundmaker.

Q. Were there any others there besides the prisoner and his band?—A. Not when I saw him next.

Q. Well do you know of any others being camped in that same place at any time?—A. Yes, the others came afterwards about a day or two. I am not very sure about the time.

(This is now translated into Cree to the prisoner.)

Q. Who were the others?—A. Stonys, Crees and Stonys, and other bands of Cree Indians.

Q. Do you know what other bands?—A. Yes, there was Little Pine's band.

Q. How many, about how many? A. One hundred I suppose; there would be more than 100, I could not say.

Q. What other bands?—A. Strike-him-on-the-back's band, I suppose, about 300.

Q. Any others?—A. Red Pheasant's band, I suppose about 100, perhaps a little over.

Q. Did you leave Poundmaker's reserve the prisoner's reserve, when he left—A. No.

Q. How long did you remain after he left? A. On the reserve?

Q. Yes? A. Until it would be about the 10th May or so; I could not say exactly to a day or two, it would be about the 10th or 11th May.

Q. That you remained in the settlement? A. No, on the reserve, it was some distance off the settlement.

Q. When did you leave the settlement? A. I left it on the 29th March.

Q. And where did you go to from the settlement? A. I went to the camp.

Q. You hadn't the prisoner with his band at the camp? A. The prisoner wasn't there yet.

Q. The prisoner wasn't there? A. No.

Q. I understood you to say you saw him? A. I saw him there, but he came afterwards.

Q. When did he come? A. Just as it was getting dark.

Q. On the same day? A. On the same day.

Q. From anything he said—or did he say anything as to what he had been doing in the mean time? A. No, it was principally personally that he spoke—I don't remember—my mind was too occupied to—

Q. You did not know what they had been doing from the time they left you in the settlement until you joined them at Cut Knife Creek; you did not know? A. No, I didn't know.

Q. How long did they remain at Cut Knife? A. Until this time that I speak of, the 10th May.

Q. Then, did they all leave together? A. Yes, all together.

Q. And you left with them? A. Yes.

Q. While you were there at Cut Knife, in the month of April, did anything occur unusual? A. Oh, yes, everything was unusual, there was so many things occurred that—

Q. Were there any visitors? A. Yes.

Q. Who and what? A. A half-breed and an Indian came up from Riel.

Q. How did you know they came from Riel? A. I saw them. I didn't see them come from Riel, but everybody said they came from Riel.

Q. Did you hear the prisoner say anything about that? A. I must have heard him say something about it. I don't recollect anything particular about it.

Q. Did they bring anything with them? A. They brought a letter.

Q. Did you see the letter? A. I did.

Q. Where did you see it? A. In Poundmaker's tent.

Q. Was he there when you were looking at it? A. Yes.

Q. He was there? A. Yes.

Q. You saw it in his possession? A. Yes.

(Letter put in, marked Exhibit No. 1.)

Mr. Robertson.—This is putting words in the witness' mouth.

Mr. Justice Richardson.—Perhaps you will teach me how to do it.

Mr. Robertson.—I thought I objected in the proper way.

By Mr. Scott :

Q. Is that the letter? A. That is the letter.

Q. Did you hear that read? A. I did.

Q. By whom? A. By a man called Delorme; he is the man that brought it.

Q. Read to whom? A. To a tent full of Indians, the big tent it was.

Q. Was the prisoner there? A. He was.

Q. You say it was read by a man named Delorme, do you know his first name?

A. No, I don't.

Q. Was there anyone with him when he was reading the letter? (This is translated to the prisoner in Cree.) A. Except a tent full of Indians.

Q. Any of those that came with him? A. I think the other man was with him.

Q. What is the other man's name? A. Jay-kee-kum, Chic-i-cum, I believe he was there.

Q. Did you know any other name he had? A. I did not at the time. I know him now, they call him "Boss Bull," I think.

Q. He is an Indian? A. Yes, I think so.

(Translated into Cree to the prisoner, what has been said by the witness about the letter.)

Q. The letter was read in what language? A. I believe it was read in French, I am pretty nearly sure about it. I would not swear to it at all.

Q. Was it read in any other language? A. Well, then he translated it into Cree, Delorme did.

Q. In the prisoner's presence? A. Yes.

Q. Is that (Exhibit No. 2) the letter? A. Yes.

Q. How did you happen to write that second letter? A. I was in the tent, and a man they called Pee-yay-cheew, an Indian from Red Pheasant's, came to the tent and said I was wanted, and I got up and went with him, and went into the tent, in the middle, and these men were sitting there, sitting in the tent, and it was said they wanted me to write a letter to Riel.

Q. Who said that? A. I could not say who it was.

Q. Was that after you got into the tent? A. Yes.

Q. What was done with the letter after you wrote it at their dictation? A. I could not say.

Q. What did you do with it? A. Well, I gave it to some of them, but I don't know whom it was.

Q. Is that the last you know of it? A. No, that is not the last I know of it.

(This is translated in Cree to the prisoner.)

Q. What do you know about it since? A. They read it to some half-breeds—the half-breeds read it themselves.

Q. Where? A. In another tent.

Q. How did it get to that other tent? A. I could not say.

Q. Were you in the other tent when you heard it? A. I was.

Q. Who were the half-breeds that read it? A. It was a man called Jobin, I believe, that read it.

Q. Do you know his first name? A. I don't.

Q. What nationality was he?—A. I think he was a half-breed, I would not be sure. I never saw the man before.

Q. You heard them reading it in this tent? A. I did.

Q. Was the prisoner there? A. He was there.

Q. Was there any conversation between them that you heard? A. Yes (Translated into Cree to the prisoner); there was in the letter, it appears in the translation I had made a mistake; they had used an expression in Cree that was ambiguous, and I put down wrong meaning. I understood them to mean to send only one messenger, and I put: Send only one messenger; and when the man read this, he said it was not good, so he altered it. I did not see—at least, I believe he altered it. It was understood to have been altered.

Q. Will you look at the letter and see if there is an alteration in it, and by whom it was made, if you know? A. It is on the last page—"if you send us news, send only one messenger."

Q. Now, look at the bottom of the page, whose writing is that? A. I could not say.

Q. You don't know? A. No.

Q. Does that letter show the alteration you speak of? A. It does.

Q. You say that Poundmaker was present in the tent, at the time this letter was being read? A. Yes.

Q. Did he hear the conversation about the alteration you speak of? A. He did; at least I presume he did, I could not say.

Q. Did he say anything about it? A. I don't remember.

Q. At all events he was present? A. He was present.

Q. Was that the last you saw of that letter? A. Well, I did not see it then. I only heard the conversation.

Q. Did you see it afterwards? A. I did not.

Q. Who wrote the name "Poundmaker" signed at the bottom of that letter? A. I did.

Q. By what authority? A. By the authority of the men that told me to write the letter.

Q. Had you any authority from the prisoner? A. Well, I consider I had. I would not have written it if I had not had authority, that is very certain.

Q. Do you know whether or not he knew that his name was signed to it? A. Oh, he knew.

Q. He knew how? A. Well, when they were finished, you see one said one thing and another another, and it was very difficult to do anything at all, and I began to get puzzled, and I did not know who was the man that was running the business at all, and Co-pin-ow-way-win was sitting here, and I believe he dictated the latter part of the letter, and when it was done I said whose name am I going to put here? Co-pin-ow-way-win said this man, pointing to Poundmaker, as if it was very silly to ask such a thing, and I looked at Poundmaker and said is that so? Yes, he said, and the other fellow said, put all our names down, so I put them all down.

Q. You say the letter was dictated by those who were present in the tent; did the prisoner dictate any portion of it? A. Well, I believe he did.

Q. You believe he did, do you remember that he did? A. Well, I would not be very positive about it, I think he did.

Mr. Robertson.—I have allowed several of these questions to go. I submit they are not proper.

Mr. Justice Richardson.—Why?

Mr. Robertson.—In the first place what the witness believes is of no consequence as matter of evidence, he must state facts that he knows. My learned friend puts the question to him in this shape—don't you know that he did? or do you remember that he did?

Mr. Justice Richardson.—Asking him to remember with a view to the positive, I suppose, is what Mr. Scott meant?

Mr. Scott.—Do you remember whether he did is what I should have asked?

Mr. Justice Richardson.—Isn't that a proper question?

Mr. Robertson.—I object to the question as being a leading question.

Mr. Justice Richardson.—The question is do you remember his doing so?

Mr. Robertson.—He had already asked the witness about that, and the witness replied he believed he did, and my learned friend suggested to him that he should make it stronger.

Mr. Justice Richardson.—I don't think it was a suggestion. (This evidence now translated to the prisoner in Cree.)

By Mr. Scott :

Q. I think you said Mr. Jefferson that the Indians left the encampment at Cut Knife Creek early in May, sometime in May, I don't know whether you mentioned the date or not, did you? A. I did.

Q. About what date? A. I believe it was a Saturday, I am not sure.

Q. You are not sure about the date? A. No.

Q. At all events you said it was early in May? A. Yes, it might be the 10th or 11th or 12th, or something like that; I could not say exactly, there was no date at all, it is only by calculation that I can come at it.

Q. Did anything unusual happen before you left? A. Yes, there was a battle.

Q. When? A. About the beginning of May.

Q. Do you remember the exact date? A. Well, of my own knowledge I don't remember it, but people say it was the 2nd May.

Q. Were you present at the battle? A. I was present, you might say, and yet you might not say so.

Q. Will you explain what you mean by that? A. Well, I heard that I was present. I heard that I was there and yet I did not see anything.

Q. What do you mean by hearing that you were there? A. Well, what I mean is when I got at night, at the end of the day, when the half-breeds came back I came back with them.

Q. From where? A. The place of the creek, about 3 miles or so up the creek.

Q. Did you see any fighting? A. I did not.

Q. Did you hear any noise, any firearms or guns? A. Oh, yes.

Q. Could you judge how far it was from you? A. Oh, yes.

Q. Did you see the prisoner at that fight? A. I saw him in the morning, not at the fight.

Q. Had you any conversation with him then? A. Yes.

Q. What did he say? A. Well, he says, they have come to fight us, that is what is the matter. I asked him, what was the matter, and he says they have come to fight us, that is what is the matter.

Q. Did he say who they were? A. No, that is about as near as I could get what he said, I think.

Q. What was he doing at the time you spoke to him? A. He was hauling down a flag off a pole, I believe—a piece of white flag with a bird on it and some stars.

Q. Do you know whether there was any meaning in that in doing that?—A. Well, it was a sort of protection against bullets.

Q. What was? A. The flag.

Q. The hauling of it down or the putting of it up? A. No; I suppose it was put up there as a sort of protection, I could not say, mind.

Q. I don't understand you, do you know whether or not it was intended as an emblem; that it was put up there with any intention? A. No, I could not say. I heard that he had made a flag, and I saw it on the pole.

Q. How long was that flag up there? A. That I couldn't say.

Q. Did he say anything as to his intention in pulling it down? A. No, he did not say anything about it, he did not say anything more than I have already told you.

Q. That is all he said to you? A. Yes.

Q. Do you know where he went after he left you that morning? A. I don't.

Q. Where did you go? A. I went to the half-breed camp.

Q. Where was that? A. It was a little behind the Indians' camp.

Q. In what direction from where the troops were coming? A. Well, that is what I mean by a little behind, a little further on.

Q. On the other side of the camp from where the attack was expected? A. On the left hand side behind, it was not directly behind it.

Q. Is that all you know about the fight? A. That is all I know about it.

Q. When did you come back to the prisoner's camp? A. I think it would be about sundown, very near it.

Q. Had you any conversation with him afterwards? A. Oh, yes.

Q. About the fight? A. Yes.

Q. Do you remember what he said? A. He says, how many times did you shoot? I said I did not shoot at all, and he did not say anything and that was the end of it.

Q. That was all the conversation you had? A. That was all the conversation.

Q. Did you see any killed or wounded? A. Yes.

Q. On which side? A. On the Indian side.

Q. Did you see any others on the other side? A. No.

Q. How many did you see? A. I saw one.

Q. After leaving the camp at Cut Knife early in May where did the Indians go to, the prisoner and the Indians, did they all go together? A. All went together.

Q. Did they keep together? A. All kept together.

Q. Until when? A. Until about just after the battle at Batoche.

Q. Where were they then? A. A place they call the End of the Hills.

Q. In what direction from Battleford was that? A. A little east of south, perhaps south-east.

Q. How far would it be from Batoche? A. I don't know. It would be about 100 miles perhaps, I never was at Batoche.

Q. How far was it from Cut Knife? A. About 60 miles, perhaps it might be 70.

Q. In what direction from Cut Knife; I am speaking of the camp and Cut Knife Creek? A. About east.

Q. They kept together until after the battle at Batoche I think you said? A. Yes.

Q. Why did they separate then? A. To come into Battleford.

Q. What was their intention in moving eastward do you know, or did you ever hear the prisoner say anything about that? A. No, I never heard the prisoner say anything.

Q. Why did they, after proceeding, after having proceeded 60 or 70 miles eastward, why did they turn into Battleford, do you know? A. There were some half-breeds came up from Duck Lake and some Indians I believe too, who wanted them to surrender. They said that Riel had been scattered—

Q. How do you know this, did you hear them say so? A. I could not say who I heard say so.

Q. Did you hear the prisoner say anything about it? A. No, I don't remember hearing him saying anything about it.

Q. At all events they came into Battleford? A. Yes.

Q. What did they do there? A. They gave up their arms.

Q. And surrendered? A. And surrendered.

Q. Did anything happen before they turned into Battleford, were any further, any other acts of violence committed that you know of? A. Well there were some teamsters taken. Yes, there were some teamsters taken.

By the Court:

Q. Are you speaking of your own knowledge, witness? A. Oh, yes, I saw the teamsters. I did not see them taken, but they were there and they can't have been there without they were taken.

By Mr. Scott:

Q. Then you did not see the attack on the teamsters and the teams? A. No.

Q. The time the prisoner left the settlement on his own reserve, did I understand you to say that others left about the same time; were there others, any others left about the same time? A. The whole camp left.

Q. On the same day? A. Oh, yes, they all went together.

Q. What do you mean by the whole camp? A. I am speaking of the original settlement, the houses that he lived in.

By the Court :

Q. Did they all leave the same day, witness? A. No they did not.

By Mr. Scott :

Q. The houses they lived in, did they all leave the same day the prisoner left? A. They were not living in the houses principally, there were only two men that I know of who were living in houses.

Q. Well, call it a settlement, did they all leave that settlement on the same day? A. No.

Q. Who left or were there any left besides the prisoner? A. Well, except—to go into Battleford do you mean?

Q. Of course, you don't know where they went to, but did they all leave at the same time? A. They all left at the same time I think. I did not see them leave, you know.

Q. Were you left there alone? A. I was left there pretty nearly alone, there were two men left. I know of two men that were left.

Q. Were there only three men in the whole settlement, three persons in the whole settlement after Poundmaker left? A. No.

Q. Well, who else were there? A. All the women.

Q. All the women and children were left? A. Were left.

Q. The men did not all go, they all left but two? A. They all left but two.

Q. Then all the men left with him with the exception of two and the women and children remained? A. Yea.

Q. Do you know if there is anything unusual in that course; do you know anything about the Indian customs in a matter of that kind? A. Well, it is not very unusual. No, under the circumstances, it was not very unusual.

Q. Under what circumstances? A. Well, they had been talking, I had heard the prisoner telling somebody that Oo-pin-ow-way-win has gone to Battleford to ask Mr. Rae for some tobacco, and he would see by that what his mind was, how the land lay; he was to ask him for some tobacco, and if he got some tobacco, he was to ask for tea and then he would see what sort of a—I don't know how he expressed it, except by, how the land lay, how Mr. Rae's mind might be as far as giving went.

Q. Well, then, is it usual only for the men to start on an expedition after tea and tobacco, is that what you mean, under those particular circumstances? A. You are rather puzzling, you. I don't exactly understand you.

Q. I ask you is it usual or unusual for men of a band to start away without the women and children, and you say it is not unusual under the circumstances? A. Oh, it is not unusual at all.

Q. When the males start away together what do they start away for as a general thing? A. Oh, they might start away to make a dance, they dance for provisions you know and interview the agent.

Q. Then you don't know whether there was any reason for the men going away without the women and children do you know? A. No I don't know.

Cross examined by Mr. Robertson :—

Q. Are you sure, Mr. Jefferson, that they went without any of the women and children? A. No, I am not sure.

Q. Would you be surprised to hear that there were something in the neighborhood of twenty women with the men who went to Battleford? A. No.

Q. Would you be surprised to hear that there were fifty? A. Yea, I think I would.

Q. That would surprise you you think if you heard there were 50 with them?
A. Well, from the number of Indians, unless they took pretty nearly all the women, they could not very well take fifty you know.

Q. About how many women are there on that reserve or were there at that time? A. Forty or so.

Q. About forty altogether? A. Yes, I think so, about forty.

Q. Do you know at what time of the day Poundmaker himself left the reserve?
A. I do not.

Q. Did you see any of the Indians going away from the reserve? A. Well, where the house in which I lived was, you could not see them going away because they would pass out of sight before they got off the reserve.

Q. You could not see them going away? A. No.

Q. Well did you see them moving in the direction of the borders of the reserve in such a manner that they seemed to be going away? A. Oh, I could not tell whether they were going away or not from the direction they were going in.

Q. From anything you saw, you could not tell whether they were going away or not, then you did not see them go away in a body? A. No, I did not see them go away in a body.

Q. You say you saw Poundmaker in the morning and he then told you that he was going to Battleford? A. Yes.

Q. To ask for tea and tobacco? A. I don't remember what he said about what he was going to do, but I remember particularly his saying that he was not asking anyone to go with him, but if they liked to go he would not stop them.

Q. Well, was that in answer to a question from you? A. I don't remember. I could not say.

Q. You couldn't remember that? A. No.

Q. It may have been in answer to a question from you whether any others were going with him? A. Oh, it was not in answer to a question whether any others were going with him or not—I mean the conversation. I could not say whether the conversation was started by me asking him the question which brought out this, or whether he really proffered it, I could not say; but as for asking whether he had asked the men to go with him or not, I did not ask him anything of the sort. It was part of his former communication which he made. It was part of that communication which he made.

Q. Well, did he come to tell you that, did he come to you? A. I think he did.

Q. Well, did he go off then when he said that; did he go off as if he were then going? A. Well, I could not say that. That is a difficult question to answer.

Q. Well, was the impression left upon your mind that he was going off then at once? A. That he was going off that day, that he was going off very soon. I could not say that he was going right off immediately and not going to stop at all. It did not strike me to think about whether he was going off right away.

Q. When was it you noticed that so many of the Indians had gone? A. I saw Poundmaker's wife I think, or else Simos' wife. I am not sure which of them it was who said that they had nearly all gone.

Q. Well, when was that; was it late in the afternoon or was it the next day? A. I could not say. You must remember that circumstances have occurred since which knocked things out of most people's head at any rate.

Q. I would like you to recollect if it was in the afternoon of the following day that you noticed that they had gone? A. I could not say that.

Q. Did you go about to the houses and tepees to see how many were left? A. I could not say that I went with that purpose exactly.

Q. You did not go for that purpose at all? A. No. At least I could not say that I did—I don't believe I did.

Q. Then how did you happen to notice that they all had gone? A. Well, if you were on a reserve you know, you could not help, you would see how I would notice. They are always around and there is always somebody coming around to the house even if you don't go out at all.

Q. Still now it is not at all impossible that more than two men might have been on that reserve without your knowing it? A. Oh, it is not impossible, but I think I would have heard about it at any rate.

Q. If there had been others there? A. If there had been others there.

Q. Why do you think you would have heard about it? A. Because while the Indians were in that state, they did not care about hiding anything.

Q. Was it necessarily hiding it, not telling you, you did not make any enquiries did you? A. Well, but I had some friends in the camp who told me pretty nearly everything.

Q. That is what you think it is probably you would have heard if some of them had remained, if some of the Indians had remained? A. I think so, yes; there is no doubt on my mind at all if that is what you mean, that there were only two Indians there, although I could not swear to it.

Q. I want to get at your reason for it; you did not go to look for them? A. No.

Q. And you saw two? A. I saw two.

Q. There might have been others there? A. There might have been others there, yes.

Q. And a good many of the women might have been away without your knowing it? A. Yes.

Q. Now you saw nothing that day that indicated anything to alarm you? A. No.

Q. There was nothing unusual in a number of them going to ask for what they wanted? A. Well, there was something unusual, but not unprecedented.

Q. It was a thing they had done before many times, wasn't it? A. It was a thing they had done before, certainly—several times.

Q. And it did not necessarily imply any hostile intention? A. No.

Q. You next saw Poundmaker, you said, at Cut Knife Creek, at Cut Knife Hill? A. Yes.

Q. You had yourself gone there first? A. I had myself gone there, yes.

Q. Why did you go there? A. Well, a train of circumstances took me there.

Q. It was accidental, your going there, was it? A. Yes.

Q. I mean you had no particular object in going to that particular place? A. Oh, I beg your pardon—

Q. Then let us know what? A. Well, I thought it probable that if I once saw him I would be pretty safe.

Q. You thought it probable if you once saw Poundmaker, you would be pretty safe—had you any reason to feel unsafe? A. Oh, yes, I had some reason.

Q. You began at that time to feel unsafe? A. Yes.

Q. When was it that you began to feel unsafe? A. When a man they called Baptiste—he came from Battleford, he came back from Battleford. I met him on the road, and I asked him what was the news. Well, he did not want to tell me, he a sort of hung back, and I began to think something was the matter.

Q. Now, how long was that after they had gone away? A. This would be the day before they came back, the day before Poundmaker came back; they came scattered, you know, one or two at a time, three or four at a time, I believe, I saw very few of them come back myself.

Q. What I want to get at is when it was you met Baptiste and you began to be alarmed; how long was that after they had gone away? A. I believe it was on a Monday.

Q. What day of the week was it they had gone away? A. I am not sure whether it was a Friday or a Saturday.

Q. You think it was either Friday or Saturday? A. I think it was either Friday or Saturday.

Q. Then it was on the Monday when you met Baptiste and he told you and he seemed to hang back about giving you news, that you began to think there might be trouble? A. Yes, I began to think something was the matter.

Q. Then you thought you would like to see Poundmaker? A. No, I thought I would like to get at what it was first. I wanted to know what was the matter.

Q. Tell us what else it was that made you feel uneasy and was your reason for going to Poundmaker at Cut Knife Creek? A. Well, this fellow, he says, come along the road with me and I will tell you as we go along. I was going in one direction and he was coming towards me, and I turned back with him, and he began to talk about various things. I have forgotten exactly, and he says what are you going to do; what do you intend to do? Well, I said I did not know—mind I could not give the exact words of the conversation, but I can give the effect—in effect, what he said and what I said, he says what are you going to do; are you going to stop here or are you going to run away? And he says I may tell you that your being here last summer is very much in your favor, and the Indians, he says, are ashamed to touch a man that had no defence in the camp, and I said I would stop; that was the beginning of the reason I had.

Q. But hadn't he told you before this anything about what had taken place at Battleford? A. He did not tell me anything before this. No, and then he began to tell me what was the matter, he said that nothing had happened yet, when he came away, but he had heard that the Stonys had killed Payne.

Q. That was on another reserve at the Eagle Hills? A. At Eagle Hills.

Q. Well what else? A. Well I went down to the house of course, and then—

Q. Didn't he tell you anything else? A. Not that I remember.

Q. Didn't he tell you anything about what was going on at Battleford? A. I don't think he did, I am not sure, though I would not swear that he did not, I mean, and yet I would not swear that he did either.

Q. Is that the same man as Grey Eyes—is that his Indian name? A. No, another man, it is a man I did not know at all, he had only drawn rations twice, I believe, on the reserve.

Q. Well, that it was that made you anxious, was it? A. Yes.

Q. And made you think that you would like to go and see Poundmaker? A. Well, it was a little after this thing had deepened considerably when I thought I would like to see Poundmaker.

Q. Well, tell us what it was? A. Jadfis—one of the two men that stayed—came to the house, and he says, better come along with me, come to my house; and I says I would be no better there than here; yes, he says, I will engage to keep you till Poundmaker come, anyhow; and I went with him and I stayed there all that night, stayed at the man's house, and the next morning a man they call Cut-lip, George's father-in-law, came into the house and told George he had better send me out, because he did not want to have bloodshed in the house.

Q. Who is George? A. One of the men that stayed on the reserve; he said I had better go outside because he did not want bloodshed in the house, he said that this Cut-lip and a man they called Mus-sin-ass had slept at his tent last night and they told him that I was not going to live, which means really that they were going to kill me, but it is literally that I could not live; and George got his gun down and commenced to load it and the father-in-law was looking on all the time and George sat down beside me and I was sitting down there close to the window, and Jacob, the father-in-law, went out and George hitched up his waggon and said that possibly Poundmaker might have arrived by this time, and he hitched up his waggon and we went over and Poundmaker had not arrived, and I went into Poundmaker's tent, and when Poundmaker arrived, he said that I might have been killed before he came he thought, but since he had come he would not let me be killed, he said I might be useful to him.

Q. Did he make use of that expression? A. Yes, something to that effect.

Q. What were the Cree words; can you give us the exact words? A. No, I don't think I could give you the exact words.

Q. The way you have put it, it would imply that he was indifferent whether you were killed or not; did you understand him to mean that? A. Well, no, I don't think he was indifferent—far from it, if he had been indifferent he would not have cared anything about me.

Q. You understood from what he said that he was glad you were not killed?
A. Well, I understood that as far as he was concerned he would do his best, but if I had been killed before that, then he would not have had anything to do with it, and it would not have been his fault, but knowing as he did that I was there and helpless he would protect me, that is what I understood.

Q. That was the understanding you put upon it? A. That is what my mind seized upon immediately as the interpretation of what he said.

Q. Well, can you tell us what it was he said? A. He says, I have often kissed your son.

Q. Your child? A. Yes, that is all that I recollect.

Q. He referred to the fact that he had often kissed your son? A. Yes.

Q. And you took that to indicate what? A. Well, I took it to indicate that he would do his best anyhow.

Q. To protect you? A. Yes.

Q. Now do you think that what you have said just now is a fair understanding of what he said to you, that if you had been killed he would not have cared much about it, he would not have been responsible, didn't that reference to your child mean something different from that? A. Well, I have thought a good deal about that, wondered what it could mean, but it was something pretty like that, I remember.

Q. He did refer to the fact that he had kissed your child at all events? A. He did refer to that fact.

Q. And that he would do his best to protect you? A. Well, he said positively. Yes.

Q. Now that was when you met him at Cut Knife Creek, was it on his return from Battleford? A. That was when I saw him first.

Q. Did he tell you then anything about what had taken place at Battleford?
A. I don't exactly remember. I was in such a state that I might be excused, I think from remembering small things. It is only the principal things I can fix on.

Q. Well, wouldn't that be an important thing what he told you about what had taken place at Battleford? A. No.

Q. Didn't you know at that time that stores had been plundered? A. Yes, some men came before him.

Q. And told you? A. No, they did not tell me it, they made such a row you know, and Poundmaker's wife was in the tent, and I did not need to ask anything to be told. They knew then that the stores had been gone through.

Q. Well, did you not ask anything about that; try to remember? A. No, I don't remember.

Q. You can't remember that? A. No.

Q. You can't remember his telling you anything about it? A. Well, probably he did, I guess he must have done so, but I don't remember the words he used or the circumstance at all. It could not possibly have passed without his saying something, but I don't remember what he said.

Q. Tell me, were the Indians in war paint? A. Well, I don't know anything about war paint. They paint when they are not at war. Poundmaker is painted now, and he is not at war.

Q. Was he painted in his usual way; was there anything unusual about the paint the Indians wore on that occasion that you noticed? A. Do you mean before they started or after?

Q. Yes, or after when they were coming back? A. No, there was not.

Q. You mentioned that Co-pin-ow-way-win had told someone that you could not live? A. Yes.

Q. Poundmaker says he sent to Co-pin-ow-way-win and Cut-lip to protect you?
A. Yes, he told me that afterwards, too; but Co-pin-ow-way-win did not do it.

Q. Well, it was rather a warning that you got through them than anything else?
A. Rather an unpleasant one.

Q. George's father-in-law you said brought the warning to you which he had received from Co-pin-ow-way-win and Cut-lip? A. He did not speak to me, he spoke

to his son-in-law as if all he thought about was to spare his daughter the agony of seeing anybody killed close to him.

Q. That was the way you understood it? A. Yes.

Q. Well, did Poundmaker tell you, when you met him at Cut Knife Creek, anything about what he was going to do in the future? A. I could not remember anything that he did; anything special, anything that was worthy of remembering, I could not say.

Q. Well, can you remember anything however unworthy, Mr. Jefferson? A. Well, you see it would have to be something especial for me to remember it, if it was not especial I could not possibly remember it.

Q. Then what you mean is that you don't remember anything he said to you? A. I don't remember anything, it is very indistinct all that time.

Q. How long was it after you met Poundmaker at Cut Knife Creek that Delorme and Chic-i-cum came from Riel? A. I could not say exactly, it could not have been more than a fortnight, I think. I think it was less, I don't remember the date.

Q. Well, it could not have been later then than about the 15th April, it could not have been later than that, in fact it would be the 13th April? A. Yes.

Q. They came and brought this letter? A. Yes.

Q. Up to that time did you see anything in Poundmaker's conduct to indicate any intention of rising or of doing any more wrong? A. I could not remember anything.

Q. Then when they came they brought a letter which has been produced here and which you say you saw in Poundmaker's tent; was that the first time you saw it? A. No, it was read by this man, you know, before Poundmaker got it.

Q. You saw it before you saw it in Poundmaker's tent, did you. A. Yes.

Q. Where did you see it? A. Well the man was reading it I suppose about ten yards off.

Q. The man that was reading it was about ten yards off from you? A. Yes.

Q. Where was that? A. They make a big tent you know on any special occasion and this tent was in the middle of the circle in which the tents are set, and it was in this tent that he was reading the letter.

Q. In a large tent, in the centre; do you know who had put up that tent? A. No.

Q. How many Indians were there in the tent when the letter was being read? A. It was pretty full, but I have not any idea.

Q. About how many? A. Well, there was more than fifty I am sure.

Q. Was Poundmaker there? A. Yes.

Q. And that was the first you saw of the letter? A. That was the first I saw of the letter.

Q. Now you said Muchichee (Delorme) it was that read the letter? A. Yes.

Q. Did he say anything, in addition to what the letter contained, to the Indians? A. Oh, yes, the letter is nothing compared to what he said. The letter is only an introduction.

Q. Tell what Muchichee said to the Indians in the tent? A. I could not give you anything like the whole of his talk you know.

Q. No, but the most important of it? A. Well, that Riel was a sort of God. He could do many little things. He could prophesy and he was going to get help from such and such people.

Q. Where, what people? A. I could not remember what people he said, from the Americans. The Americans were one.

Q. He was going to get help from the Americans? A. Yes.

Q. And what else do you recollect his saying, something about the railway—the Canadian Pacific Railway? A. Yes.

Q. What did he say about that? A. He said the Americans were going to hold the railway and no soldiers could come in. And they would have broken the railway, but they were going to use it.

Q. Well, did he ask the Indians to join Riel? A. I could not say whether he did or not. I believe he must have taken it as an understood thing. I could not say that he did, nor I could not say that he did not.

Q. Do you recollect his telling the Indians that if they did not join Riel and accept the half-breed terms that the Americans would take everything from them and there would not be an Indian that would have that much land (crack of the fingers)? A. I am not very sure. I don't think it was in the tent at the time that I heard him say that.

Q. But you did hear him say it? A. I heard him say something to that effect; yes.

Q. Threatening them that if they did not join Riel the Americans would take everything from them and they would lose all their land, that is substantially correct is it? A. That is substantially correct; yes.

Q. Well, can you tell us was Poundmaker there when you heard them telling this? A. Oh, yes, at least I was living in Poundmaker's tent, you know. I was in Poundmaker's tent, and he was not telling it to me, that is very certain. He must have been telling it either to Poundmaker or to some people who had come to visit Poundmaker.

Q. Now you had been living in Poundmaker's tent for some time before this? A. Since the beginning. I went into his tent at the beginning.

Q. After the letter was read in the big tent, it was brought to Poundmaker's tent was it, am I right in that? A. It must have been brought there, because Poundmaker had it in his hand there.

Q. Now tell me this before we go any further, in the big tent when Muchiochee was addressing the Indians, did you hear him tell them to kill every man with a red coat? A. I would not swear that I did.

Q. You don't remember something of that kind occurring, and Poundmaker telling them not to do it, that he did not believe what Muchiochee had said? A. No, I don't remember anything of that kind. I heard—it must have been indirectly. I am sure it was not directly that he had said the soldiers had to be all killed.

Q. That Muchiochee had said this? A. Yes.

Q. But you were not present when that was said? A. No, I did not hear them say so, or I think I didn't.

Q. But your memory of what took place at that time is very indistinct, that is you remember only small portions of it? A. Yes, things that stood out, that were conspicuous I remember, or anything that has anything to do with myself I remember.

Q. The letter you say was in Poundmaker's hand? A. Yes.

Q. Did he say anything to you about it? A. I believe he did, for I asked him to let me read it and he did, he gave it to me.

Q. Do you read French? A. Oh, I read it, yes.

Q. You can get the meaning, I suppose? A. Yes.

Q. Did you have any conversation with him about what was in the letter? A. I did, I believe; in fact I am sure I did; that is only a figure of speech.

Q. Who else was present at that time? A. When he had the letter?

Q. Yes? A. I could not say.

Q. There were several others, were there not? A. I could not say whether there was or not.

Q. Had these messengers brought tobacco and tea, or anything of that kind to the Indians with the letter? A. I could not say.

Q. What did Poundmaker say to you about the contents of this letter? A. I don't remember him saying very much, or saying anything at all particularly. I read the letter and I thought I remembered that this man, instead of saying 35 or 40 minutes, had said 5 or 10 minutes with respect to the duration of the fight, and I just remarked that to Poundmaker.

Q. What reply did he make, do you remember? A. No, I do not remember.

Q. Did he say anything that indicated that he was going to do as that letter told him, and go and join Riel? A. No, I don't remember him saying anything about it.

Q. Was there a soldier's tent put up in the camp? A. Yes.

Q. Can you explain to the jury what a soldier's tent is, and what it means in an Indian camp? A. Well, I think so; there might be something; I might make a mistake.

Q. Tell us as well as you understand? A. Well, when there is anything difficult to do, they make a soldier's tent, and these soldiers have to provide certain things; they are the executive, you might say.

Q. Now, who are the soldiers? A. The men that make the soldiers' tent.

Q. Well, are they the young men or the old men? A. Oh, they are generally young men.

Q. Young braves? A. Yes.

Q. And do they take command of the camp when that is done—do you know, of course, I don't want you to say what you don't know? A. Well, I am not very sure whether they do or not; they are supposed to do so, I believe.

Q. And what becomes of the authority of the ordinary chief when that happens? A. Well, I never saw it happen but once.

Q. Well, it did happen this time, at all events? A. I could not say whether it did or not.

Q. Don't you know that there was a soldier's tent put there, A. I know there was a soldier's tent put there, and that is about all I know about it; they danced in there pretty nearly every night.

Q. The young braves? A. Yes.

Q. Did Poundmaker take any part in that? A. Not that I know of.

Q. Now, what Indians were in the camp at Cut Knife, when Muchichee, Delorme and Chic-i-cum came? A. All the Indians that were there at any time.

Q. They had all come in? A. Yes.

Q. Then, there were how many Stonys? A. Well, I could not say how many there was, but I think there could not have been more than fifty men.

Q. Fifty Stonys? A. Yes, that is counting men and boys. I do not know for positive.

Q. You said Little Pine's band was about 100? A. Yes, that is altogether, men, women and children.

Q. How many were there of Strike-him-on-the-Back's band of men? A. About seventy-five I should think.

Q. These were Crees? A. Crees.

Q. About how many were there in Poundmaker's band? A. Thirty-five or forty.

Q. Now who was at that camp at Cut Knife Hill first; was it Poundmaker's band or the Stonys? A. It was on Poundmaker's reserve. Poundmaker's Indians camped there the first.

Q. And the Stonys came into his camp? A. Yes.

Q. Do you know who brought them in? A. No.

Q. Don't you know that they were brought in by messengers from Riel? A. Not that they had been brought there. I heard they had been roused by messengers of Riel.

Q. And they did come in there? A. They came in there.

Q. And then when Muchichee and Chic-i-cum came, they all, the different tribes, were together? A. They were all together.

Q. Now what did you see him communicate; who was looked upon as the commander of that camp, after Muchichee and Chic-i-cum came? A. Well, I don't know what gave me the impression. I supposed it was only the result of my general observation I could not name any particular thing.

Q. You could not name anything that gave you an impression as to who commanded? A. I could not give you the name that gave me the impression, there must have been something, because the impression was in my mind.

Q. But you cannot tell us anything that gave you the impression to who did command? A. Well my being alive gave me the impression that Poundmaker was certainly the chief.

Q. Your being alive gave you the impression that Poundmaker was the chief? A. Yes.

Q. That was the only thing was it? A. That is the only thing that I can recollect. That is the only thing that I can bring to mind.

Q. Did you see Poundmaker giving any orders? A. I believe I did, there is a man they called Fine Day or Fair Weather, he was a very brave man and he got orders I think to keep around Battleford, not to attack it, just to keep watch around it, something of that sort.

Q. Did you hear Poundmaker tell him that? A. I think I did, it is my belief.

Q. You think you did, it is your belief? A. Yes.

Q. But you are not certain; and the orders were, not to attack it, not to attack Battleford? A. I think so.

Q. Now that was at the time when they were all camped out at Cut Knife Creek Hill? A. Yes.

Q. Some distance from Battleford? A. Yes.

Q. Now wasn't what you heard this, that Poundmaker tried to keep the Indians from going in the other direction towards Duck Lake and Batocho? A. Oh this was after, you know.

Q. Oh, it was after that that occurred? A. Yes.

Q. We have not come to that yet then? A. No.

Q. Now let us come to the occasion on which that letter was written, didn't you think that you were doing a pretty serious thing in writing such a letter as this (Exhibit No. 2)? A. Oh, yes, I knew that.

Q. You felt that you were in danger if you did not write it? A. Well, I did not consider I had any choice in the matter.

Q. You say that Poundmaker, Copin-ow-way-win, Mus-sin-ass Met-tay-way-sis and Peeyaycheew were all there when this was dictated? A. Yes.

Q. Now who is Mus-sin-ass? A. Well, I don't know him, except that he is an Indian from that district.

Q. He was not on your reserve? A. No, he was not on my reserve.

Q. Was Copinow-wa-win on your reserve? A. Yes.

Q. Mettayway sis? A. He is not on my reserve.

Q. And the other one was he on your reserve? A. No.

Q. None of these were Poundmaker's men except Oopinowaywin? A. No.

Q. Now wasn't Muchichee (Delorme) there also? A. No.

Q. When this was dictated? A. No. I don't think he was. Chic-i-cum was there.

Q. Is Chic-i-cum an Indian or a half-breed? A. An Indian.

Q. This is not your writing at the bottom (in blue pencil) of the letter, No. 2? A. No, that is the alteration I have referred to already.

Q. Someone else wrote something there? A. Yes.

Q. And it could not have been any of those Indians? A. No, it could not have been any of those Indians.

Q. Tell me what reserves did these last three come from? A. Peeyaycheew came from Red Pheasant's reserve. Mettaywaysis came from Strike-him-on-the-back's reserve, and Mussinaas from the same place.

Q. Now you say you could not tell which of them was running it, I think that was the expression you used? A. No it was very difficult.

Q. And so much so that when you had finished writing it, you asked whose name you were to put to it? A. Yes.

Q. And one of them—do you know which it was told you? A. Oh, yes, it was this Out-lip, Oopinowaywin.

Q. It was he that told you to put Poundmaker's name to it? A. Yes.

Q. Now you have told us that your memory is not very clear about these things happening at that time, and you swore at first when speaking about that that you had Poundmaker's authority, you considered you had Poundmaker's authority to put Poundmaker's name there, but you went on to say afterwards when Oopinowaywin told you to put Poundmaker's name to it you asked Poundmaker if you should do so and he said yes? A. Yes.

Q. He might you and be mistaken about that? A. No, I don't think there is any mistake. I am certain I would not put his name there without he did tell me.

Mind that is not the reason I have for thinking he told me. I remember, I could not really say whether I put it in the same words but I certainly made the enquiry.

Q. And you think he said so, said distinctly to do it, to put his name there?
A. I certainly understood so.

Q. The war party was very strong in the camp at that time wasn't it? A. Oh, yes, it was.

Q. Nearly all the young braves were in it? A. Yes.

Q. Now were all the old men in it too? A. Well, no, they were not all in it, there were different degrees of beings in it; you know, too, some people were what you might call bloodthirsty, indiscriminately, others simply considered they were doing a duty, and others thought which was the best way to get out of it without exciting attention at the time.

Q. Whose attention? A. The attention of the Indians—their fellow Indians.

Q. There were a number of the older Indians who wanted to get out of it, but they were afraid of the younger men, is that what you mean? A. Well, I know several. I don't know how many. I know several myself that would have been pretty glad to get out of it I think.

Q. They did not want to have trouble? A. No.

Q. But they were afraid of the younger men? A. Yes.

Q. They had good reason to be had they? A. Yes.

Q. And anyone who had opposed the doings of the young men at that time would have had good reason to be afraid? A. Yes, I think they would.

Q. Even Poundmaker would have had good reason to be afraid of resisting what the young men were doing? A. Well, I don't know whether he would or not. Poundmaker is a great speaker you know. Poundmaker can induce a man to do pretty nearly anything almost.

Q. Yes, when it tallies with their own inclination? A. Yes, and it was their own inclination.

Q. And if he had opposed them instead of leading them? A. Well, probably he might not have been able to do anything.

Q. The fact was that the young men had control of the camp hadn't they?
A. Well, they had and yet they hadn't. They had control of the blood and murder sort of business, but the management of the Riel business was in the hands of the older men, you know. The young men did not care who was killed or who they were for. It was just "kill anybody and take what you can catch." I mean there was a system in the way in which the older men did it, but the young men had no system at all.

Q. What system what indications of system? A. They took things coolly.

Q. They were comparatively cool? A. Yes.

Q. But what did you see them do? A. I could not recall anything at the moment which I saw them do.

Q. You can't recall anything at the moment you saw them do? A. No.

Q. Now Poundmaker says you are mistaken in saying he said yes put his name to that. Now may it not have been one of the others that said yes? A. Oh no. No, it could not have been. Poundmaker and Oopinowwaywin were on one side, that is almost behind me, and you might say on the same line with myself, the others were seated, so that to look at Poundmaker and get his assent I had to turn my head (to the side) like that and I don't think I was mistaken.

Q. Oopinowwaywin was sitting next you? A. Yes.

Q. Mightn't Oopinowwaywin have said yes when you asked that question?
A. No, I was not looking at him, Oopinowwaywin.

Q. But you heard the voice? A. I don't believe that I am mistaken. That is my impression.

Q. You don't believe you are mistaken? A. No.

Q. But you might be mistaken? A. I may be mistaken.

Q. You may have been mistaken? A. Oh, yes.

Q. It may have been Oopinowwaywin that said yes. Now after Muchichee and Chicioum came, how much time elapsed before the fight at Out Knife? A. About two weeks I should think. I would not be positive.

Q. Now were Muchichee and Chicioum trying to induce the Indians to go to Batoche or Duck Lake during that time? A. Yes, I have every reason to believe they were, in fact I am sure of it.

Q. You know they were? A. I know they were.

Q. Now, don't you know also that Poundmaker was trying to keep them from going there and was trying to get them to go to Devil's Lake? A. No, he wasn't.

Q. What was he doing? A. It was after this still that he wanted to go to Devil's Lake.

Q. Well, do you say he was not—all you mean by that is that you did not see it at that time? A. What I mean is that I don't believe that he wished them to go there instead of going to Devil's Lake.

Q. What did you see him do or hear him say that bore upon it, upon the going to Batoche? A. Well, Poundmaker had such unlimited confidence in Riel, if there was nothing else, that at the beginning he certainly never expected Riel would be beaten, and even that would induce me to think he did not want to go to Devil's Lake. Why should he go to Devil's Lake?

Q. That is your own inference; that is your own opinion and the jury form the opinion and the jury form the opinions in these things, and what I want from you is the facts upon which you base your opinions; you may have opinions of your own of course, but did you see anything in Poundmaker's conduct or did you hear him say anything that showed a willingness on his part to go to Duck Lake or Batoche? A. I could not remember anything.

Q. Then when you say you don't believe he wanted to go the other way, it is merely an opinion which you—? A. Based upon things which I must have forgotten.

Q. Well you may have forgotten them or not? A. That is only my opinion; yes.

Q. A man often forms an idea without having much to base it upon? A. Yes, but I am not of that genus.

Q. But the impression on your mind is that he did not want to go to Devil's Lake before that; but you saw no indication that he wanted to go the other way? A. No.

Q. Then the fight at Out Knife was after this letter had been sent off? A. Yes; two or three days after.

(Adjourned here for lunch till 2 p.m. when court resumed.)

Q. After you had signed these names in the letter, Mr. Jefferson, you gave it to some one you said, to whom did you give it? A. I could not say to whom I gave it.

Q. The next time you saw it it was in another tent? A. Yes.

Q. When the half-breeds were revising it? A. Yes.

Q. Who were those half-breeds that were revising it? A. I only know one of them.

Q. Who was that? A. Jobin.

Q. When did Jobin come to the camp? A. When [the other half-breeds came across, I think. I did not see him come across.

Q. When the other half-breeds came across from where? A. From the other side of the river.

Q. Then Jobin came across when the Battleford half-breeds came? A. I think so. I did not see him come.

Q. That is what you understood? A. That is what I understood.

Q. He had been there before that letter was written? A. Yes.

Q. For some little time? A. Yes, for some little time.

Q. Then he was there and Muchichee and Delorme were there, what other half-breeds were there; before that letter was written; can you give any names? A. In the camp do you mean?

Q. Yes? A. Yes, most of these half-breeds that used to stop around Battleford were there.

Q. Do you know anything about how they were brought there? A. Yes.

Q. How? A. Well, I know how two got there, but as far as personal knowledge goes I don't know.

Q. How many other half-breeds were there with Jobin in the tent when they were revising the letter? A. Oh, I could not say, I did not count them, but there must have been a dozen at least of them.

Q. And they were discussing it, were they? A. Yes. Well, I don't think there was very much discussion. Jobin had the letter in his hand, and he read it over, and he said it was very good except this part about only one messenger coming.

Q. And he found fault with that? A. He found fault with that.

Q. And someone after that must have put that little postscript at the end which you did not write? A. Yes.

Q. That is the postscript "If you send us news send as many men as possible?" A. Yes.

Q. That was written in a postscript? A. Yes.

Q. And then you did not see the letter after that? A. No, I did not see it after that.

Q. Do you know, have you any means of knowledge of what became of it? A. Well, they said it was taken to Duck Lake.

Q. Did Jobin leave the camp that day? A. They said he did. I did not see him leave.

Q. Did you see him there afterwards; was he there afterwards? A. I very seldom saw anybody except in the tent. I had not any means of seeing them.

Q. You understood he did leave that day? A. I understood he did.

Q. And that he took that letter? A. Yes.

Q. Now, you told us that on the morning of the fight at Cut Knife you saw Poundmaker and you asked him what was the matter? A. Yes.

Q. Had the firing begun then? A. Yes.

Q. And where was Poundmaker? A. Standing beside the cart which stood beside his tent.

Q. He was close to his tent? A. Yes.

Q. And he was pulling down a flag? A. Yes.

Q. How long had the firing been going on at that time? A. I could not say, I had just wakened up.

Q. Well, you were living with Poundmaker, were you not, in his tent? A. No, at that time I was living in another tent beside him.

Q. And you were wakened up by the firing? A. No, I was wakened up by some one coming into the tent and telling us to get up.

Q. And telling you that there was firing? A. Yes, that there was firing.

Q. And when you came out, you found Poundmaker pulling down a flag, now what flag was this? A. Well, it looked as if it was made out of white calico.

Q. Do you know what it was meant for, who put it there? A. I did not see anyone put it there, but I understood Poundmaker put it there.

Q. You did not see anyone, you don't know whether he put it there or not? A. No, I don't know whether he put it there or not, but I have not any doubt.

Q. You have not any doubt because—? A. I did not see him put it there; I don't know that he put it there.

Q. But you saw him pulling it down? A. I saw him pulling it down.

Q. What did he do after that conversation with him when he said they had come to fight us, that was what was the matter? A. He wrapped the flag around his shoulders, and got on horseback and went off.

Q. Did he take his gun? A. I don't know.

Q. Try to recollect? A. I don't know. I have been trying to recollect now for five or six weeks every event connected with this case, with this business.

Q. Well, have you directed your attention to that before as to whether he took his gun that time? A. No, I could not say.

Q. Was this flag a white flag? A. Yes.

Q. He got on his pony and rode off? A. Yes.

Q. Where did he ride? A. I could not say.

Q. You could not say that? A. No.

Q. Did you see him bearing arms that day at all? A. No.

Q. Did he seem excited? A. Well, he was pretty pale, but I don't think he was very excited.

Q. He seemed alarmed then, frightened? A. That was what I was thinking.

Q. Do you know whether he had expected any attack before that? A. Yes, he is a prophet amongst other things, and he prophesied he expected an attack before that. It did not come though.

Q. When did he say that? A. It was very shortly after the making of the camp.

Q. Now, where was he when he prophesied this? A. Well, he was in the tent.

Q. In his own tent? A. In his own tent.

Q. Were there many people there, many Indians there? A. Not at this time, there was not anyone there except his wife and myself, I believe.

Q. What did he say about the attack? A. Oh, he said he was uneasy. He said something was going to happen.

Q. What did he say about the attack? A. He says, where is your gun, and I said it is behind here. Well, he says, load it up. He says, if there is anything comes here, you will have to fire it off, and I said all right. That is all he said particularly.

Q. Did he say from whom he expected the attack? A. No, you know it was in a prophesy and a prophesy is generally indefinite, it is only something that might happen, one thing or another.

Q. Who else was present when Poundmaker told you this, that he expected an attack? A. I don't think there was anyone particular present, no men at any rate.

Q. There were no men present? A. I don't think it.

Q. Was it in the morning or evening? A. I could not say that either.

Q. Can you say what day of the week it was? A. No.

Q. You don't know that? A. No.

Q. Were you and Poundmaker alone there? A. Practically.

Q. What do you mean by that? A. Well, I mean that his wife was there and my wife was there and perhaps both his wives might have been there. I am not sure, but one was.

Q. Now, might you not be mistaken about that? A. No, there is no mistake about it.

Q. He says that the only conversation he had with you about a gun was after the fight? A. No, there is no mistake about it.

Q. There is no mistake about that? A. No.

Q. But he did not say what he expected the attack from? A. No.

Q. Tell us his words as nearly as you can when he told you that? A. Of the attack?

Q. Did he use the word "attack" at all to begin with, or the Indian word for it. A. Well, he expected some danger, he said there was something impending, and it must have been an attack or else he would not have spoken about the gun.

Q. That is a matter of reasoning. I ask you to give me his words, Mr. Jefferson. He spoke of some impending danger? A. Yes.

Q. I ask you to give me his words? A. I could not give you the words.

Q. The utmost is then after all that he said that he was uneasy and that he was afraid there was danger from some direction? A. Yes.

Q. And that you had better keep your gun loaded as you might have to fire it off? A. He says, where is your gun? and it was under the bed, you know, under the eaves of the tent rather. At the beginning I had lent it. An Indian woman had borrowed it when they went into Battleford for her son to shoot rabbits with, two or three days before this. It was Yellow Mud's brother whose wife had borrowed the gun. He brought it back and said he did not want to join anyone in taking

things from me, that he would give me my gun back. He brought it and I just laid it behind under the bedding.

Q. That was Yellow Mud Blanket or his brother? A. Yellow Mud Blanket.

Q. That is Poundmaker's brother? A. It is.

Q. Tell us the rest, he asked you where is your gun, and you had got it back in this way and you said it was there? A. Yes.

Q. And he told you? A. He says load it up, you will have to fire it off.

Q. If what? A. If this attack I suppose.

Q. Now he did not speak of an attack you say? A. No, he spoke of the attack at the beginning.

Q. You said he did not, you said it was some impending danger he told you of, you cannot tell exactly what words he used and it was matter of your own inference that it was an attack; he told you to load it up, that you would have to fire it off if trouble came? A. Yes.

Q. That was the substance of it? A. That was the substance of it.

Q. Now he knew that you were a loyal man didn't he? A. I think he did.

Q. Did you suppose he was inviting you to load up your gun to fire at the troops? A. That is as I understood it.

Q. Then you did not think he thought you a loyal man? A. I beg your pardon, his object in saying me, I always understood, you know, was purely personal, not general, it was not from any love of the white people that he saved my life, it was only from personal motives.

Q. But he told you although he knew you to be a loyal man to load your gun? A. Yes.

Q. And you inferred from that that he expected you to fire upon the whites? A. I think he did; yes.

Q. I just want to get that out, so that the jury can understand the way in which you look at things, Mr. Jefferson.

Q. Now when did you see Poundmaker again on that day after he rode away on his pony? A. Well I saw him in the evening.

Q. Where was he? A. He was standing over some dead bodies and he was talking to people around there I understand, he was telling them not to grieve, something of that sort, that such things must occur and something that way.

Q. Give us his words if you can? A. I could not give you his words.

Q. You cannot give me any of his words? A. No.

Q. That is another piece of your own interpretation, I suppose; that is another of your impressions? A. Well, no, it is not, there is not much impression about it. I heard the man speak and that was the subject, that was what he said, abbreviated certainly.

Q. He told them not to grieve, and encouraged them? A. Yes.

Q. You say that, do you? A. Yes.

Q. Now you know other people heard what he said, do you swear that? A. Oh yes.

Q. That he told them not to grieve and encouraged them? A. I swear that he told them not to grieve, that such things must occur, they could not expect I suppose to fight and not have anyone killed.

Q. Did you hear him say anything before that? A. No.

Q. Do you know that he prevented Indians from pursuing the troops? A. No.

Q. You do not know that either? A. I don't know that.

Q. How much do you know about what happened on that day? A. Well, I know very little. I know that I saw half-breeds running away except three or four of them, and I know that I saw Mussinass come along, and I had better tell you that I told my wife to go to the half-breed camp, and I thought she must have gone, that is why I went over there. I thought the half-breeds had a little more sense than to stop there and fight, so I told her.

Q. The half-breed camp was just outside the Indian camp was it? A. Yes, and Mussinass came and asked what we were standing there for, and he said go down

there, pointing to a little sort of ravine, right close to the camp; and three fellows on foot, I think it was two or three, went along, and two men on horseback and myself on foot, and he came up behind. Mussinass (Musateniwas) and soon after that I believe he was shot, at least I heard afterwarde that he was shot. I did not see him shot, but they said he had been shot.

Q. Well during the whole time were you in the front of the battle at all? A. No, I did not see any battle. I did not see any soldiers and I did not see any Crees fire, or half-breeds either.

Q. And you did not see Poundmaker between the morning and the evening? A. No.

Q. You were in the half-breed camp nearly all day A. The half-breed camp was beyond me, they went about I suppose three miles further than I did, two or three miles.

Q. They went further than you did? A. Yes, they went further than I did.

Q. What are we to understand by that, didn't you tell us the half-breed camp was just outside the Indian camp? A. I mean the half-breeds went away from the camp.

Q. They ran away? A. Yes.

Q. And you went over in the direction of the half-breed camp? A. Yes, I followed them.

Q. You went beyond the half-breed camp then? A. No, they went beyond the old camp, the men left their tents standing as they ran off, and in the direction in which they had gone I followed.

Q. And you went beyond the old camp? A. Oh, yes

Q. So that you were a long way from the fight? A. So that I was I suppose two and a half miles, perhaps—

Q. And you were that nearly all day? A. Yes, most of the day.

Q. Now after the fight messengers came again from Riel? A. Yes.

Q. Who were they? A. The men who had gone down came back again, the half-breeds who had gone down came back again,

Q. Who were they? A. Jobin and the man they called Vernet, I believe. I have learned these two other names since. I did not see go away, see them go away, so that this is another of my suppositions.

Q. Well, did you see them coming in? A. No, I did not see them coming in.

Q. Did you see them after they came in? A. I saw them after they came in.

Q. Do you know who they are or who they were? A. I saw them after they came in.

Q. Who were they? A. Keeteewayhow, he has a half-breed name, I believe.

Q. Did you see Arcand? A. I did.

Q. Did you see Wawpass Trotter? A. Yes.

Q. Did you see Jobin? A. Yes.

Q. Did you see Alexander Cayien? A. Not that I know of

Q. That is, Keeteewayhow? A. I saw him.

Q. Did you see Tripoo's Carrière? A. I don't know, I probably have seen him, but I don't know him.

Q. Did you see Chicicum? A. Yes, Chicicum had not gone away.

Q. He was there still? A. Yes.

Q. Well, now these were all half-breeds, were they? A. Yes, except Chicicum.

Q. Charles Trotter did you see him? A. That is the man they called Tripoo's Trotter, that is the man I mean.

Q. Do you remember among them a big stout man, with a beard slightly grey and a hooked nose? A. Arcand is a man with a beard and a hooked nose.

Q. A stout man? A. Yes, he is a good size.

Q. That was one of these at all events and you remember all these different half-breeds being there, and they had come from Riel as you understood? A. Yes, I understood so.

Q. That was how long after the fight of Cut Knife? A. I believe it was the day after. It might have been two days after.

Q. Was there a powwow held after they came to the council? A. Well, they read the letter in the open air.

Q. There was another letter? A. Yes.

Q. Read in the open air? A. Yes.

Q. Who read it? A. Jobin.

Q. Was anything said as to Jobin being president? A. No.

Q. You don't recollect that? A. No, I don't recollect that.

Q. Do you remember Jobin sending for a fat ox or a cow? A. I heard that, but I did not know anything about it. I only heard that as part of the news.

Q. You were not there yourself? A. No.

Q. But you heard this other letter read in the open air to the Indians? A. Yes.

Q. Can you tell us what it was? A. I can give you a pretty good idea I think.

Q. Do you know what has become of it? A. No, I don't.

Q. What did it contain? A. It said that they had had another fight with the troops, that the troops had attacked them on both sides of the river, and they had sent out 150 of their breeds to meet them, that they had behaved themselves—not only like brave men but like heroes, that they could not say that it was a victory but that the general had been obliged to retire after it, that they could not say how many men were killed, but there were four waggon-loadsful. He said they hadn't to continue this indiscriminate warfare. They had to do it more systematically. They hadn't to kill prisoners. They hadn't to kill wounded men. They had to hurt no one that was not going to hurt them, and I think they wanted 200 men—I think it was 200—to go down and help to take General Middleton prisoner.

Q. This was the letter from Riel? A. This was the letter from Riel.

Q. Was it signed by Riel? A. I did not see it.

Q. You understood it that way? A. Yes.

Q. Do you remember another thing, was it in the letter or did one of the messengers say it that the Sioux some of them had watched wounded soldiers or killed soldiers being put into the waggon, and they had counted 30 or 40 being put into one waggon? A. I think that was one of the—by word of mouth—that was not in the letter.

Q. And did they say anything more to this effect that the Americans had come over and had destroyed the railway from Regina to Maple Creek or something to that effect? A. I don't think it. I don't remember anything of the sort.

Q. Well, that was read in the open air to the Indians generally? A. Yes.

Q. By Jobin? A. Yes.

Q. Did he read it in Cree? A. He did.

Q. What was done next? A. Oh, in the letter he wanted them all to go down to him. He wanted all the Indians to come down to him and these 200 had to come on ahead, something like that.

Q. Well, what was the next thing done after that letter was read? A. They shifted the camp I believe.

Q. I mean immediately? A. The next thing of any event was their starting down.

Q. Well, what was done or said by anybody about that about the letter? A. Oh, they had some talk about it when he finished reading the letter. I suppose it must have been transmitted to him from the halfbreeds down below as part as a recital of the battle or something of that sort. He told what the letter failed to tell, I suppose.

Q. Who did? A. This Trottier.

Q. Did you hear any conversation between either of them or any of those messengers and Poundmaker about that letter? A. Yes.

Q. What did you hear? A. I heard Poundmaker ask Trottier when the Americans were coming. Oh, he says what would be the good of the Americans coming? If the Americans came, were to come here, they would want to have the country for

themselves. He says, we want to try and take it ourselves and then we will sell it to the highest bidder. Poundmaker said something to the effect that if that had been known that they would not have started the row. It was because they had expected the Americans coming.

Q. Did he say all that: because they expected the Americans coming? A. Because they expected the Americans to come that they had started. He said he expected to have the whole summer to clean out the barracks.

Q. That he expected—now come, what were the words he used? A. We expected.

Q. "We"? A. Yes.

Q. Are you sure he said "we"? A. Yes, I feel pretty sure.

Q. Did you hear them try to persuade him to go to Batoche? A. Well, except that I don't remember hearing anything.

Q. You did not hear anything else? A. No.

Q. Were you still living in Poundmaker's tent? A. No.

Q. Where were you living? A. Close beside him.

Q. And you saw him every day? A. No, I very seldom saw him, that is, I very seldom spoke to him at any rate.

Q. What was this occasion on which this conversation took place that you speak of? A. It was after they had finished reading the letter.

Q. Immediately afterwards? A. Yes.

Q. In the open air? A. Yes.

Q. And at a large meeting? A. Pretty large.

Q. Did he say it out loud so that everyone could hear? A. I think so.

Q. It was not a private conversation then? A. No, it was not a private conversation.

Q. It was said in the meeting to all the Indians that were there, so that everyone could hear it? A. So that everyone could hear it.

Q. Did he find fault with this man for misleading the Indians in telling them the Americans were coming? A. Well, that was the tone in which he spoke, that it was a very wrong thing for them to do.

Q. Did you hear Poundmaker at any time saying anything about the wishing to go to Devil's Lake? A. Yes.

Q. When was that? A. It would be about a week after this.

Q. Well, who was present? A. I could not say who was present.

Q. Was Jobin present? A. I could not say.

Q. Were any of the half-breeds? A. I would not be sure. I am not sure. It was a well known thing, so that someone must have been present.

Q. It was a well known thing that he had wanted to go away to Devil's Lake? A. Yes.

Q. It was in the other direction from Batoche altogether, wasn't it? A. Yes.

Q. And would have taken the Indians away out of the trouble altogether and kept them away from Riel? A. It would have kept them away from Riel; yes.

Q. But the Indians decided to go? A. Yes.

Q. And Poundmaker resigned? A. Poundmaker started off, and they brought him back.

Q. Poundmaker resigned his chieftainship didn't he? A. I could not say.

Q. And didn't the half-breeds take command of the camp before they started?

A. Well, I could not say. I have no personal knowledge of whether they did or not, but that was my impression.

Q. That was your understanding of the state of affairs? A. Yes.

Q. And Jobin was president? A. Well, that was the story in the camp; Yes.

Q. Now are you aware that Poundmaker and Mud Blanket and some others actually tried to get away themselves to Devil's Lake? A. Yes, I know it.

Q. Tried to get off by themselves when they could not control the Indians and they were stopped and prevented from going? A. Well, I don't think it was because they couldn't control the Indians then.

- Q. You don't think? A. No.
- Q. The fact is that they tried to go? A. They tried to go; yes.
- Q. And they were turned back? A. They were turned back.
- Q. By whom? A. By the Stony Indians, I believe.
- Q. They warned them back and would not let them go out of the camp? A. No.
- Q. Then the camp moved off towards Eagle Hills? A. Yes.
- Q. And the next thing was the capture of the teamsters? A. Yes.
- Q. Do you know who was in command of the body that captured the teamsters?
- A. No.
- Q. Where was Poundmaker? A. I could not say.
- Q. Did you, during the whole of this time, see Poundmaker giving any orders?
- A. No.
- Q. Did he take any active part at all? A. No I don't think he did.
- Q. When the teamsters were brought in where were they taken? A. Well, I could not say. I did not see them brought in.
- Q. Where did you see them the first time you saw them after they were brought in? A. Well, it was in a little kind of a valley; they were down in a hollow.
- Q. In whose camp? A. Oh, there was no camp at all that time, it was while we were on the road. You might say it was a surprise, all the carts went into a big valley, and I suppose the men went off to take these freighters, and there was no camp at all—they stopped there for dinner.
- Q. Was there no camp made at all during the time the teamsters were with you?
- A. Oh, yes.
- Q. Well, during that time, in what camp were the teamsters kept; were they not kept in the half-breeds' camp? A. They were kept in the half-breeds' camp.
- Q. Not in the Indian camp? A. No.
- Q. Do you know how Poundmaker treated them? A. Except that I heard he treated them very well, I don't know anything.
- Q. Were you present at the council that was held before the surrender? A. I was present when they wrote a letter. I wrote a letter for them to surrender.
- Q. To General Middleton? A. Yes.
- Q. Upon whose advice was it that that was done. A. I could not say.
- Q. You could not say? A. No.
- Q. Don't you know it was done on Poundmaker's advice? A. I don't know that.
- Q. You don't know that? A. No.
- Q. Don't you know that Poundmaker had constantly before that tried to have those teamsters given up? A. No, I don't.

Re-examined by Mr. Scott:

- Q. When was it that the prisoner wanted to get away and was stopped by the Stonys? A. It was about ten miles from Cut Knife.
- Q. Was that after they had left the camp at Cut Knife Creek? A. Yes.
- Q. On their way eastward? A. To Riel, to Duck Lake.
- Q. It was after that that he wanted to—? A. Yes.
- Q. Did he attempt to get away, did you see? A. Yes, they turned off.
- Q. Who was with him when he turned off? A. I could not say, his brother was with him, and I heard, I did not see them when they were brought back you know—it is only I heard—
- Q. Were there any other members of his band going with him? A. Well, I heard—
- Q. Do you know of any? A. I don't know of any.
- Q. Did you hear him say what his object was in going to Devil's Lake? A. Well, he did not exactly say what his object was.
- Q. Did he say why he wanted to go there? A. I could not give you his exact words, but I can give you something like it.
- Q. Tell me in English what he said, of course if you gave me his exact words I would not understand you? A. Well, he said Riel was in a fix, Riel must be in a fix, and if they went down there they would probably get into a fix, too.

By Mr. Robertson :

Q. He said that to the Indians, did he? A. I could not say who he was addressing.

Col. HERCHMER, sworn :—

Examined by Mr. Casgrain :

Q. What is your Christian name? A. William Macauley.

Q. You are one of the superintendents of the mounted police force? A. Yes, I am superintendent of the police.

Q. I believe you left Regina about the end of March last? A. Yes.

Q. For Battleford? A. Yes.

Q. Were you in charge of a force? A. I was in charge of a party of police of forty-six men and afterwards put on on Col. Otter's staff as adviser.

Q. What was the colonel doing? A. He was commander of a column of militia and police.

Q. What was this column doing; what was it got up for? A. It was sent to the relief of Battleford, which was supposed to be in danger from the Indians.

Q. What was the state of the country at that time? A. The country was in insurrection and rebellion.

Q. After leaving Regina where did you go? A. I went to Swift Current, and then to Medicine Hat and back again to Swift Current and started from there to Battleford.

Q. Well, did anything happen on your way to Battleford or after you got to Battleford? A. On the road to Battleford, two days before we got there, we exchanged some shots with some Indians.

Q. Do you know the prisoner? A. I know him since 1880.

Q. Was he there on that occasion? A. No, not that I know of.

Q. Had you occasion to meet him after that? A. On the 2nd May I saw him on the field at Cut Knife Hill.

Q. What was going on at Cut Knife Hill? A. Col. Otter went out with a strong party for a reconnaissance and under the impression, by my advice, that the Indians would not fight, that we would have a chance of talking with Poundmaker, as I firmly was impressed with that idea. On ascending the hill at Cut Knife, after crossing the creek, a party of twenty or thirty mounted men fired on to us.

Q. Were they half-breeds or Indians? A. Some were half-breeds, some were Stony Indians, they were painted, and I recognized them, of course at that distance, about 800 yards when they were apart, and we then commenced to return it.

Q. Did you see the prisoner at all that day? A. I saw the prisoner on two occasions that day.

Q. How long did the fight last? A. Seven hours.

Q. And during the fight, you saw him on two occasions? A. On two occasions distinctly, I pointed him out to Major Short of the artillery, and he laid a gun on him twice.

Q. What was he doing? A. He was driving in a buckboard on the first occasion I saw him.

Q. Was he doing anything else? A. Well, he looked to me as if he was general in the whole party, because after the different positions he would take the fire would come from fresh ravines, new ravines.

Q. Was he going around at all? A. I saw him driving from this one place back to this high hill which surrounded the whole camp, and I distinguished Father Cochin at the same time on this high hill.

Q. Did anything come from this hill when the prisoner went to it? A. Well, that was far from this one bluff to the right, and I told you I saw him in the buckboard, and the fire came from that several times.

Q. Did you see him after this? A. I saw him again on the top of the high hill.

Q. What was he doing then? A. I should judge it was too far off to tell what he was doing. I should judge he was generaling the whole party.

Q. What is Poundmaker on his reserve? A. He is the chief of the Crees, at Battleford.

Q. Do you know who the leader of the insurrection was, the general leader?
A. I understood Louis Riel. I don't know at all. I was not in that part of the column.

Cross-examined by Mr. Robertson :

Q. You have told us everything that led you to suppose that Poundmaker was acting in command? Yes.

Q. You saw him there? A. I saw him there.

Q. And firing took place? A. Yes.

Q. And firing was taking place in all directions, wasn't it where he was and where he was not? A. Yes.

Q. How far was he from you when you saw him the first time? A. We laid the gun about 1,500 yards, and hit a man alongside of him. I think it is a pretty good distance.

Q. How far was he the second time? A. About 2,000.

Q. You say you could recognize him at that distance? A. I have glasses, we carry glasses.

Q. And it was through that you recognized him? A. Not the first time. The first time I recognized him with my naked eye, I know him very well. I travelled one summer for a long time with him. I know him very well.

Q. How was he dressed? A. He was dressed I think in his shirt sleeves, I could not swear to that.

Q. He was dark? A. Perhaps I was not in a state to see exactly that day. was a little excited that day myself. I was fighting.

Q. The impression on your mind was that it was Poundmaker you saw? A. I know it was Poundmaker. I am certain of it.

Q. At 1,500 yards? A. At 1,500 yards.

Q. Driving in a buckboard? A. Driving in a buckboard.

Q. And the second time it was through the glasses you saw him? A. Through the glasses on top of the high hill, he is a prominent looking man and a man you can tell along with the other Indians at once.

Q. How far from the place where the fight was going on? A. I was in front and it was right immediately in front of me.

Q. But 3,000 yards away? A. 2,000, about that, I did not measure it. I would have taken aim at that distance if I was laying the gun.

Q. You were close to the Indians? A. As close as he would let me.

Q. And you saw Father Cochin beside him then? A. No, I did not see him beside him. I recognized Father Cochin on the hill. I recognized him so far that I told Major Short and I told Col. Otter. I said there was a priest up there. I knew he was a priest by the petticoats.

Q. How far was he from Poundmaker? A. I don't know, he was on the same hill on which I afterwards saw Poundmaker; it was on the same hill which surrounds the whole camp. It covers the whole camp. It is to the left from where we were fighting, a very high hill, and my right and their left was their camp, and on this hill were gathered as I understood from seeing there was a number of women there when the fight commenced, and it was on this hill I saw Father Cochin and also Poundmaker.

Q. Where the women were? A. I took them for women, the same as I took the father for a priest.

Q. How far from that hill was he the first time you saw him? A. It must have been when I saw him on the bluff, it must have been three-quarters of a mile from that hill, it was away to the right, to the right flank.

Q. Was he near to the tent or far from them? A. A long way from the tents then, the tents were close to the high hill.

Q. Was it early or late in the fight? A. We had been fighting about two hours, I think, as far as I could judge. I did not look at my watch.

Q. Do you know an Indian called Mustinatawass. ? A. No, I dare say I know him, but I would not recognize him by that name.

Q. Poundmaker says, Col. Herchmer, that there was an Indian driving in a buckboard, that it was not him at all, an Indian who was wounded he said in the fight ? A. Well, I saw him in a buckboard.

Q. You are so positive as that at 1,500 yards without a glass and in the excitement of action ? A. Well I am not an excitable man.

Q. What was the country like between you and Poundmaker when you saw him at 1,500 yards ? A. There are two little islands of timber through there to the right, and this was an open space between the two islands of timber, and perfectly clear, with a dip of the ground between us and there, and it was on slightly higher ground than that on which we were standing.

Q. And you say that a gun was laid for Poundmaker and it hit the man beside him ? A. It hit the man alongside of him. I judged that by a horse coming back riderless.

Q. That was how you knew that ? A. We knew we got our guns at the right range, and we saw a party—there were several, I think four or five, close there in the party, and we saw them separate and run clean out, run away.

Q. And what did Poundmaker do, the man in the buckboard ? A. Turned around and wheeled away and went back and we tried another shot at him and were not successful at all. He got too far out of the range.

Q. Was there much firing going on at that time where you were ? A. A little.

Q. Was the firing hot ? A. Well I thought so—hot enough for me, anyhow.

HAROLD E. ROSS, sworn :—

Examined by Mr. Scott :

Q. Where do you live ? A. Prince Albert.

Q. What is your occupation ? A. Deputy sheriff.

Q. Where were you about the 26th of March last ? A. I was at Carlton.

Q. What were you doing there ? A. I was there as a volunteer, doing general volunteer duty under Major Crozier.

Q. Did anything happen to you about the 24th ? A. On the 24th March I was taken prisoner with Mr. Astley, by a party of half-breeds under command of Gabriel Dumont.

Q. Where ? A. Near Duck Lake.

Q. Who was in command of the party who took you prisoner ? A. Gabriel Dumont.

Q. In what condition were they as to arms ? A. They were all armed—all of them.

Q. Where did they take you to after they took you prisoner ? A. To Duck Lake.

Q. Whom did you find there ; what did you find there ? A. I found about 300 half-breeds and Indians under arms, under the generalship of Riel.

Q. Did you see the man who was in charge of the party that took you prisoner, Gabriel Dumont, did you see him there ? A. I did.

Q. Did he form a portion of that party ? A. He did.

Q. You were then confined at Duck Lake for a time ? A. I was there for I think a week, or about a week.

Q. Did anything happen while you were there ; did anything happen on the 25th March ? A. On the 25th March, no, on the 26th March the battle of Duck Lake took place, in the afternoon.

Q. What do you know about that battle ? A. Well, I know that I saw a large body of men going out, I should say about 300 armed half-breeds and Indians.

Q. The same party that was at Duck Lake ? A. The same party that was at Duck Lake. I saw them going out armed and I heard shots, and during the battle Albert Monkman came to see me, and was running around rather excited.

Q. Was Albert Monkman one of the party ? A. He was one of the party. I asked him what was the matter, and he said there was a little fight going on up the road.

Q. Did you see anything of the armed men again? A. They all came back. I saw them coming back.

Q. The same day? A. The same day.

Q. Did you hear anything said by any one of them as to what happened? A. Yes. I heard from different parties there that there had been a fight there, that they had killed so many of the volunteers and mounted police.

Q. Who did you hear saying that? A. I heard Mr. Riel for one.

Q. You heard him saying there had been a fight? A. Yes.

Q. And that there were a number of people killed? A. Yes.

Q. Did he say anything else about it? A. Well, he stood there talking for some time. I rather think it was about the time they brought Newitt, a volunteer that was wounded on the field. They brought him in and said he would be safer with us. They brought him up stairs and he stood at the head of the stairs, and was talking to us for some time, and that was the time, and he said that he was going to establish a new government and a new code of laws; and he said that if he could not get the English half-breeds to come to his assistance, he did not expect to fight against the white people he said of Prince Albert, that he would have to enlist the Indians on his side. I could not swear to the exact words he said, but something like that.

Q. How do you know he was the leader of that party; you say he was the general? A. I was there for seven weeks, and I had a very good idea when I would see him sending—

Q. From what you saw? A. From what I saw during the time I was prisoner.

Q. He was in command to your knowledge? A. To the best of my knowledge.

Q. I suppose the others obeyed his orders? A. Apparently they did.

Q. You remained about a week at Duck Lake and where were you taken to then? A. I was taken to Carlton.

Q. How long did you remain at Carlton? A. I think three days and then I was taken from there back to Batoche, and then I remained there till 12th May, when I was released by the troops under command of Gen. Middleton.

Q. Were you kept as a prisoner? A. I was.

Q. Were there any other prisoners besides you? A. There were seven of us; eight, but one was released to carry word back to Prince Albert that the volunteers might come after their dead.

Q. You saw the party that took you prisoner and the party that they joined at Duck Lake were all armed, how long did they remain armed—the half-breeds that you saw there? A. They remained armed all the time I was with him, about seven weeks.

Q. Up till the 12th May? A. Yes.

Q. Do you know from anything that was said there what troops they were fighting with? A. They were fighting against the mounted police and volunteers and Gen. Middleton. They heard of Gen. Middleton and they spoke several times of Gen. Middleton. There was one man Venable I think his name was. He was my informant as to the troops and who they were commanded by.

Q. What troops? A. Gen. Middleton's troops.

Q. What troops were Gen. Middleton's troops? A. Canadian volunteers. They were the troops that came and took us out of the cellar.

Q. Of Gen. Middleton and he had some troops composed of Canadian volunteers? A. Yes.

Mr. Robertson says he has no questions.

CHARLES ROSS sworn:—

Examined by Mr. Casgrain:

Q. You belong to the mounted police force? A. Yes.

Q. Where were you on the 2nd May last? A. I was at Cut Knife with the troops.

Q. What was going on there? A. Well, a kind of a battle I think.

Q. Between whom? A. Between the Indians and troops and police and soldiers.

Q. Were you there with Col. Herchmer at any time during the day? A. Yes.

Q. Do you know the prisoner? A. Yes.

Q. Did you see the prisoner that day? A. The prisoner was pointed out to me, but I could not recognize him that day.

Q. By whom was he pointed out to you? A. Col. Herchmer.

Q. What did he say? A. He said that was Poundmaker in the buckboard on the hill. I noticed somebody in the buckboard and Indians driving backwards and forwards to the camp.

Q. The colonel said that was Poundmaker in the buckboard? A. Yes.

By the Court:

Q. You could not recognize him? A. No.

By Mr. Casgrain:

Q. Do you recognize the prisoner as being the man that you saw that day? A. I did not take the glasses. I saw the buckboard and the man in it.

Q. What was done after that? A. Well, they kept fighting there all day, and the prisoner stayed on the hill till Major Short fired the cannon and then got off again.

Q. How many were killed in that fight on your side? A. I believe seven killed and fifteen wounded.

Q. How did this fight begin? A. Well, we started from Battleford one evening, and we arrived there just after daylight in the morning, and I went upon the hill and went right close to the camp; there was no Indians then, only one. I saw one Indian riding around, and as soon as he saw me, he began riding around in a circle, and I went down and informed Col. Herchmer the camp was there; and he told me to go back up again and see if they could get any position for the guns near the camp; and I went back again, and when I got there again, there were twenty or thirty Indians around, and still the Indian was riding and others came up with me, and at that time there were thirty Indians; and our orders were not to fire unless fired upon, and when we were up on the hill, there were two shots fired by the Indians. I don't know whether they fired first or not, but they fired two shots, and I asked the men if we would commence shooting, and they said: "Yes; as the Indians have started, we had the privilege to shoot." So they commenced firing, and fired from that on continually.

Cross-examined by Mr. Robertson:

Q. Col. Herchmer told us that he did not look at the prisoner through glasses the first time he saw him? A. I don't know whether he was looking through the glass.

Q. You knew the prisoner before? A. Yes, I had seen him during the winter.

Q. And you were not able to recognize him? A. I did not pay much attention to him in fact.

Q. You were not able to recognize him when he was pointed out to you? A. No, I did not recognize him at all; there was only two men that I recognized there. I could not recognize but two men there, that was all.

Q. At the distance at which he was, can anybody, do you think, recognize with the naked eye, with certainty distinguish, for instance, Poundmaker, from any other tall, handsome Indian? A. Well, I could not say that.

Q. Do you think anyone could know with certainty at that distance at which you were then? A. I don't know; there is men there seems to say they could recognize him. I heard several say they could recognize him through the day.

Q. They thought they did? A. Yes.

Q. But you could not do it? A. I did not recognize him; no.

Q. You heard a couple of shots fired at the Indians, you do not know whether at you or not? A. Yes.

Q. And then you got orders to fire on them? A. Yes; they started to fire first though themselves.

Q. No flag of truce was sent out and no attempt made to communicate with the Indians? A. No flag of truce flying anywhere.

Q. No attempt made to communicate with the Indians before firing? A. They started firing.

Q. You heard a couple of shots, but you did not know that they were fired at you? A. I could not swear they were fired at us.

Q. You went up quite close to the camp? A. I was up within about 200 yards of it.

Q. And there were no outposts? A. There was one, one man, that is all.

Q. You saw one Indian there? A. I saw one Indian mounted, and as soon as he saw me, he commenced riding around in a circle and they commenced coming out of the tents; but after these two shots were fired, there were 200 or 300 Indians came out of the tents on both sides trying to surround us; they were all armed, everyone of them.

Q. You did not wait to be surrounded? A. They were firing then, and we did not want to be surrounded if we could help it.

JOSEPH ALEXANDER SWORN :

Examined by Mr. Scott :

Q. Where do you live? A. Battleford.

Q. What do you do, what is your occupation? A. I am employed by the police there.

Q. Do you know this man in the dock? A. Yes.

Q. How long have you known him? A. About seven years.

Q. Do you know where he was living? A. Yes.

Q. Where? A. Up to Cut Knife.

Q. Was it at Cut Knife or near Cut Knife? A. It is called Cut Knife; it is close on his reserve.

Q. Do you remember the 2nd May last? A. Yes.

Q. What were you doing on that day; did you go out with Col. Otter and Col. Herchmer and the troops from Battleford out to Cut Knife? A. Yes.

Q. What did you go out for? A. I went with the soldiers to fight with them, to help them fighting.

Q. Did you see this man, the prisoner, there that day? A. Yes, I saw him.

Q. Where did you see him? A. I saw him at Cut Knife Hill going up the hill, to the right as you go up the hill, riding in a buckboard.

Q. What was he doing; did you see him doing anything that day? A. I did not see him fire any gun at all.

Q. Did you see him doing anything else? A. I only saw him riding in a buckboard, and of course the colonel saw him too, that was before the fight was over.

Q. Was it during the fight you saw him riding? A. I saw him all the time, through all the fight, till such time as the fight was over.

Q. Were there any other Indians near him? A. Blue Eyes and Light Foot was along with him there. I saw them, it was up the hill, to the right of the hill where I saw them.

Q. Were there any shots came from the direction, fired from the direction in which you saw the prisoner? A. Shots came from that direction, but I could not say who fired the shots. I could not say whether it was Poundmaker.

Cross-examined by Mr. Robertson :

Q. How far were you from Poundmaker? A. Not more than 200 yards, I guess.

Q. Where were you? A. I was in the direction where I saw him to the right. I was at that direction where I saw him.

Q. Were you inside the Indian line? A. I could not say whether I was inside of their line or not.

Q. How far were you from Col. Herchmer? A. He did not come to the direction where I was, but he remained where the cannon was.

Q. Col. Herchmer did? A. Yes.

Q. How far were you from Col. Herchmer? A. I was standing alongside of Col. Herchmer when I saw him riding in the buckboard, standing about two or three feet from Col. Herchmer.

Q. And that was not more than 200 yards from Poundmaker? A. About that. I told colonel and the colonel knew him when I pointed him out to him, as the prisoner; when I crossed the creek I saw Peter Ballantyne. Peter Ballantyne looked at him with a spy-glass and knew it was Poundmaker riding in the buckboard. I did not look with the spy-glass myself, only Mr. Ballantyne that looked through the spy-glass.

Q. Where was Poundmaker then? A. He was riding up a hill, going home-wards towards his camp.

Q. Where the women were? A. Going home to the camp where the women were.

Q. Was the fight still going on then? A. That was just about the latter end, there was firing, a chance shot every now and then still.

Q. Was there any fighting after that at all? A. No, that was just the last of the fight.

Q. Were Blue Eyes and Light Foot with him then? A. I did not say that, I saw them with him at that time. But I saw them two I know another time together.

Q. But you did say before, Poundmaker was on the buckboard and Blue Eyes and Light Foot with him? A. I did not say that they were all three together. The question that was asked was where did I see Poundmaker? And it was only then that I should give the answer that it was only two, but instead of that I mentioned three.

Q. Didn't you say before that Blue Eyes and Light Foot were with Poundmaker when you saw him in the buckboard? A. When he first went towards the creek himself, to the right of the hill as the road went up. I saw Poundmaker and Light Foot and Blue Eyes. That was the three.

PETER BALLANTYNE SWORN:—

Examined by Mr. Casgrain:

Q. Where do you live? A. Battleford.

Q. Do you remember the 28th March last? A. Yes.

Q. Did anything happen that day? A. I think we heard the Indians were coming down in a body from their reserve to Battleford.

Q. What Indians? A. Poundmaker's Indians and others.

Q. Do you know the prisoner? A. Yes.

Q. His Indians, his band? A. His band and others.

Q. Well, did they come down? A. Yes, they came down on Monday.

Q. Do you remember the date? A. About the 30th March, I think.

Q. Did you see the prisoner there? A. Yes.

Q. What was he doing? A. He came down there with a body of men and I went to meet them myself.

Q. What did the Indians do there? A. When I met them, they asked me where was the agent and I told them he was across the river and they asked me what is the reason, and I told them we were afraid of the half-breeds from Duck Lake and then they asked me then to give them the news, and I told them what happened at Duck Lake, about the fight.

Q. Was the prisoner there at that time? A. Yes, I was standing right in front of him and I told him what happened and I told him I could not tell him exactly how many were killed on each side. I said there were killed on both sides, I said we had different rumors, we did not know the exact number.

Q. Well, did the Indians do anything after that; did the prisoner do anything after that? A. No; I asked them to come down to the Indian office as they wanted to see the agent, and he asked me then if I could not send word to the Indian agent

and I told him I would write him to see if he would come over and I wrote a note to Mr. Rae; at the same time, when I saw how they acted, I told Mr. Rae I would not advise him to come across,

Q. What made you tell him that; what were they doing? A. They started helping themselves with Mr. Rae's hay, every one of them was armed, those that hadn't guns had tomahawks.

Q. What was the prisoner doing? A. I could not say anything about that.

Q. What was he doing with his hand? A. He was there, he did not say much himself except that he wanted to speak to the agent, he did not say much himself.

Q. Who was leading the band? A. Kamisgeejakoo was the man.

Q. He was with Poundmaker? A. And his brother, Yellow Mud Blanket.

Q. Did they do anything else than help themselves to hay? A. No, I did not see them take anything, but they were examining the buildings very closely—not Poundmaker himself, but the other young men.

Q. When did they leave Battleford? A. On Tuesday morning.

Q. Well, between the time they came to Battleford and the time they left what did they do there? A. Well, the time that I was with them, I was with them all day and they had not done anything except ask—they gave me a list of what they wanted and I went across and found out that they had raided the buildings.

Q. When you came back, you found—? A. We were fired upon, we could not get across.

Q. Who fired upon you? A. Half-breeds, it wasn't Indians.

Q. Do I understand you to say you went across the river and when you tried to get back you could not get back? A. Next morning, on Tuesday.

Q. What had they done then? A. The buildings were all raided.

Q. Did you see the Indians when you came back to Battleford? A. No.

Q. They had gone? A. They had gone.

Q. Well, from the time they got to Battleford till they left, did they do anything to the village of Battleford, what is called Battleford? A. On the south side of Battleford, that is where they raided all the buildings, where the government buildings are.

Q. That is called Battleford isn't it? A. Yes.

Q. Did you see the buildings afterwards? A. Yes.

Q. What did you see there? A. Some of the boards were knocked through and the windows and mostly all the panes were gone. Some of the buildings were burnt.

Q. What was in the buildings, was there anything in the buildings? A. Dry goods and groceries.

Q. When you saw them after you came back? A. Well, there was very little left. There was tea and sugar laying around on the road, print and cotton and calico, and all sorts of dry goods, heaps of it lying in different places on the road; right near my house was about a waggon load of dry goods lying there.

Q. Did you go to Cut Knife? A. Yes.

Q. Who with? A. Col. Herchmer and Otter.

Q. On what day was that, 2nd May? A. Some time about that.

Q. The day of the fight? A. The day of the fight. I don't remember the day now.

Q. Did you see anybody on the field there that you recognized? A. Not at the time of the fighting. It was after the fighting that I said I thought it was Poundmaker, and others that came up on the ridge after we had crossed.

Q. Were you there during all the fight? A. Yes.

Q. You saw the prisoner after the fight you say? A. Yes. After I came across the river, I took my glasses and looked. All the Indians came up to where the gun had been standing.

Q. What was he doing? A. They were walking around there. Catching hold of a few cartridges that were left there, and little caps, and I noticed one of them catching hold of a little blue coat.

Q. That was after Col. Otter had retreated? A. Yes, after his retreat.

Cross-examined by Mr. Robertson :

Q. Mr. Ballantyne, did Poundmaker tell you, when you met him outside of Battleford that morning, what he had come for? A. Yes, he wanted to see the agent.

Q. Did he say for what purpose? A. He wanted to ask him for some supplies.

Q. Did he mention anything in particular? A. No.

Q. Did he mention tea and tobacco? A. Something to use.

Q. He did not tell you the particulars of what he wanted? A. No, he did not mention the articles.

Q. Do you recollect that he expressed surprise at the town being desolated? A. Yes, he expressed that, not to me, but to William McKay. I was standing close by when he said it.

Q. You heard him? A. I heard him.

Q. Did he express regret too? A. Yes; he said he was very sorry, that he was always accused of making disturbance. He said: I think they do me a great deal of harm.

Q. They do him wrong, is that what he meant? A. Yes, that is the words he used.

Q. Did he, in your hearing, say anything about having sent a messenger ahead to tell the agent? A. No, he did not mention that to me.

Q. Did he show any signs at that time of anything more than on previous occasions, when he had come to see the agent to ask for some supplies? A. Not himself, but his band did.

Q. That is what I want to get at, the difference between his conduct and the conduct of any of his band. Poundmaker himself did not show any signs of that kind? A. No, he kept quiet; he kept still; he sat down in one place and said very little, he did not say much.

Q. Didn't he say, wasn't he careful to say, that he had come for no harm; did you hear him say that? A. Yes, I think I did hear him say that.

Q. And didn't he get you to write a note to Mr. Rae, the agent, who was in the barracks, asking him to come to see him? A. Yes, in fact, I think I told him I would write to the agent, and I went in the office and wrote the note. One of his young men came in there with his rifle in his hands.

Q. One of the young men? A. Yes, he stood right in front of me. Poundmaker was outside.

Q. But Poundmaker himself was really—seemed really—anxious to see Mr. Rae? A. Well, he said he wanted to see him, he was anxious to see him. Yes.

Q. Was there anything in Poundmaker's own conduct at that time to indicate that he intended any harm? A. Well, I don't see how the young men came down at all. I was told it was him that brought the young men down.

Q. We will show how all that happened, but I want to know in Poundmaker's own conduct if you saw anything then to indicate that he intended anything wrong?

A. Well, there was nothing unusual in Poundmaker that day while I was with him.

Q. And you did send a message to Mr. Rae to tell him he wanted to see him?

A. I wrote to Mr. Rae this way, I said the Indians are here all armed to the teeth, and I said they seemed to me pretty hostile the way they acted, and I said I won't advise you to come over, you might use your own judgment.

Q. But the hostile Indians, the men that alarmed you were the young braves? A. Well, the way they were acting and taking hay and helping themselves—

Q. It was the young braves? A. Yes.

Q. And the news had just come among them of trouble? A. They heard the news before. I had told them the news before.

Q. And that would naturally excite the young braves? A. I was with them the three days before that. I had seen them in their own place and was around their reserve three days before that, and I had told them.

Q. I understood you to say you told Poundmaker that morning? A. I told him that morning too when I met him; yes.

Q. But do you say that you had told Poundmaker before that? A. No, I did not say that.

Q. As far as you know that was the first that Poundmaker heard of it? A. Oh, no, he heard of it before, as far as I know.

Q. How do you know he did? A. Because I told him myself.

Q. Now, Mr. Ballantyne, let us be quite distinct about this, you told us a few minutes ago that you told Poundmaker at Battleford when you met him about this trouble? A. Yes.

Q. And you said you could not say that you had told him before? A. No, I don't remember.

By the Court :

Q. You had better correct yourself if you have made a mistake at once? A. I might have made a mistake because I was in the reserve to see them when they asked me about the news of Duck Lake, it was in Jefferson's house.

Q. That was, the Indians generally? A. No, Poundmaker himself.

Q. You saw Poundmaker himself? A. I saw Poundmaker himself and his brother and a big crowd of them there.

Q. What did you tell them then; that would be about the 27th? A. Yes.

Q. What did you tell them then? A. That there was trouble down at Duck Lake, that it had nothing to do with them, to keep quiet on their reserve and it would be all right.

Q. Did Poundmaker show any signs of astonishment at that? A. No.

Q. Did he become excited over it? A. No.

Q. Did the young braves become excited over it at that time? A. Well, there were very few of them there, there was none of the young men around there at that time, there were only five or six of them—his brother and others.

Q. Now did Poundmaker tell you, when he came into Battleford when you met him on the occasion you have told us of, that he was anxious to know the truth about the whole matter? A. Yes.

Q. And that was partly what he had come for? A. Yes.

Q. It was that as well as the provisions? A. Yes.

Q. But all the time he seemed quite friendly? A. Yes.

By Mr. Casgrain :

Q. What did Mr. Rae answer to that message that Poundmaker sent to him? A. Mr. Rae wrote me to say that he had made up his mind to stay at the barracks, and if the chiefs wanted to see him, he would meet them half way, a few of their councillors.

Q. Did you tell Poundmaker this? A. Yes, and they said "no" they did not go across, and then among other things he told me that if the Indians went away, to give them so much provisions providing they went away quietly, if not, there was a certain quantity to be given them at that time, a couple of sacks of flour to use while they were there.

Q. Mr. Rae said he would come half way? A. Yes.

Q. Did you communicate this to Poundmaker? A. Yes, I told him.

Q. And what did he say? A. He said he would not go across.

By Mr. Robertson :

Q. When was that, what day? A. The same day, Monday.

Q. But I understood you when you went across the river with that message, you did not go back? A. I said I sent a letter to Mr. Rae and I staid with the Indians all day on Monday, it was half past six when I left them.

Q. Then who brought back the letter from Rae to you? A. I don't remember. Mr. Mackay handed me the letter, I don't know who he got it from.

WILLIAM MCKAY sworn :—

Examined by Mr. Scott :

Q. Where do you live ? A. Battleford.

Q. What is your occupation ? A. I am agent for the Hudson Bay Company.

Q. You know the prisoner ? A. Yes.

Q. Do you remember seeing him at Battleford about the 27th or 28th March last ?

A. I saw him on the 30th March last.

Q. Where was he at that time ? A. At the Indian office, in Battleford.

Q. Who were with him ? A. Some other Indians.

Q. Many ? A. I would say there were over 100 Indians.

Q. There were over 100 Indians with him ? A. Yes.

Q. Do you know whether they were all of his band ? A. There was some of his band, and Sweet Grass' band, another chief.

Q. Any others ? A. The Little Pine, those were the three bands.

Q. What were they doing there ? A. When I met the prisoner he was sitting on the side of the Indian office with these other Indians, and I shook hands with him and a few others, and he spoke and he said that he was surprised to see that the police at the barracks were fortifying themselves in the way of building bastions, and that they were preparing to fire on him, and he said he was very sorry to hear that he was accused of coming down to create trouble in Battleford.

Q. In what condition were the prisoner and the other Indians as to arms ?

By the Court :

Q. Please let Mr. Mackay tell the rest of what took place, is that all ? A. I am just simply answering this gentleman's questions.

By Mr. Scott :

Q. In what condition were the prisoner and the other Indians there, as to arms ? A. Well, most of the other Indians appeared to be armed, the prisoner himself I did not see him with any arms.

Q. Did you see anything there from which you could ascertain who was the leader of that band of Indians, the party you saw ? A. Well, he being the speaker, I consider that he was the leader.

Q. Did you see anything else to lead you to think that he was the leader, or hear anything ? A. Well, anything that he said the others seemed to approve of what he would say ; this led me to believe that he was the recognized leader.

Q. Did they do anything when they were in that part of the country ? A. I saw not himself but the other Indians bringing some hay from the Indian agent's stable and feeding their horses with it.

Q. Did you see them do anything else ? A. No.

Q. This was on the 30th, was Peter Ballantyne, the last witness, was he there at the same time ? A. Peter Ballantyne was there.

Q. When you went over ? A. When I went over.

Q. Where were all the people of the Battleford neighborhood at that time ? A. They were in the barracks.

Q. Were you and Mr. Ballantyne staying in the barracks at the same time ? A. Yes.

Q. You went out there from the barracks ? A. We had gone into the barracks and came over that morning.

Q. How long did the Indians remain in that neighborhood, the Indians that you saw with Poundmaker ? A. Well, I could see them gather around the Indian office before sundown from the barracks ; after that, of course, I did not see anything of them—night came on.

Q. Was there anything done about that time, any damage done to any buildings or property there about the time of their visit ? A. All that I saw that was done was in taking this hay by the Indians, up to the time I crossed.

Q. How long did they remain in Battleford, how long did they remain in that neighborhood? A. Well, they were around there up to the time Col. Otter arrived.

Q. Was there any damage done during the time they were in that neighborhood?
A. Yes, there were buildings burnt.

Q. What buildings? A. Some government buildings and private buildings.

Q. Where are the government buildings? A. On the south side of the Battle River.

Q. Where is the business portion of the town of Battleford? A. Well, there is what we call the "old" and the "new" town.

Q. The old town is on the south side? A. Yes.

Q. And the new town is on the north side? A. Yes.

Q. Not very far from the barracks? A. Not very far from the barracks.

Q. You say there was some damage done to the old town? A. Yes, the stores were plundered and private residences and houses and Hudson Bay store.

Q. Was the Hudson Bay store plundered? A. Yes. Haffy and Clingstone's establishment was plundered, and all the other private residences.

Q. What did the contents of the Hudson Bay store consist of? A. Dry goods, groceries and provisions.

Q. Were they all taken away? A. There was but little stuff left, there was some stuff left.

Q. The bulk of the stock was taken away? A. Yes.

Q. Any buildings burnt there? A. There were two buildings belonging to the Hudson Bay Company that were burnt.

Q. Any others; wasn't there a large dwelling house burnt? A. Yes, Judge Rouleau's house.

Q. Were there any buildings plundered in the new town of Battleford? A. Not that I am aware of.

Q. Do you mean to say that the people of the new town of Battleford all withdrew into the fort and left it there and that nothing was touched in the town that you ever saw? A. I did not go around over into the new town after I went into the barracks. I staid in the barracks, and any time I left the barracks—

Q. After the Indians left did you go into the new town, after Col. Otter came for instance? A. Oh, yes.

Q. Was there any damage done there when you went into the new town; did you see any damage done there? A. Well, I saw a panel on one of the store doors smashed in.

Q. Was there any stock taken out of the stores? A. That I could not say, I am not aware of that.

Cross-examined by Mr. Robertson:

Q. Poundmaker had gone away the next morning, the morning of the 30th had he not; when was it this plundering took place? A. On the 30th was the day that I saw him at the Indian office.

Q. 30th March? A. Yes.

Q. Then on the morning of the 31st he had gone away? A. I don't know. I was in the barracks at the time.

Q. Did Poundmaker tell you when you met him outside of Battleford—did he say why he had come? A. Yes.

Q. What did he say? A. He told me he had come down to see the agent and ask for some tea and tobacco and moccasins and some other things that they were in want of.

Q. Did he express regret that the inhabitants had become frightened? A. He said that he was surprised.

Q. Did he say why he was surprised? A. Well, he was surprised because he saw the inhabitants had left the town and houses.

Q. Do you recollect that he mentioned to you that he had sent a messenger ahead to tell him that he was only coming for some tea and tobacco? A. That I don't remember, he might have said that, but I don't remember it.

Q. Don't you remember that? A. No.

Q. Try and think, do you remember a conversation with me the other day? A. Yes.

Q. In which you told me what occurred, don't you recollect now his telling you that he had sent a messenger ahead to Mr. Rae through Joseph McKay on some way, that Joseph McKay had written to him? A. No, I don't remember any such thing.

Q. As matter of fact had a message come from Joseph McKay to Mr. Rae before that to your knowledge from Poundmaker? A. To my knowledge there was a messenger sent up by Mr. McKay, I did not see any; there was a rumor that I heard that a messenger from Mr. Joseph McKay's reserve had come into Battleford by a man that was sent out, there was a messenger sent out when we heard the Indians were coming into town.

Q. And he brought back a message didn't he? A. He returned, but I did not see what message.

Q. Didn't you hear the news that he had brought back from Joseph McKay? A. Yes, I heard it from Mr. Ballantyne; he told me that the messenger had returned and stated that the Indians were on their way down.

Q. And what about their intentions that they meant no harm and that they were only coming to ask for some tea and tobacco? A. Oh, I was the party that in the first place informed Mr. Rae that the Indians were coming down, and what they were coming down for, but at that time I don't remember Ballantyne telling me, because I knew already what I had heard before, about their coming down to see the agent for some tea and tobacco.

Q. You had heard before, before they came that they were only coming to see the agent to get some tea and tobacco? A. Yes.

Q. And you had heard that through a messenger who had been sent out to Joseph McKay to make enquiries? A. Well, I did not see the messenger on the return.

Q. You heard the report that came back, didn't you? A. Well, I heard all sorts of reports.

Q. Didn't you hear the report that came back by the messenger who was sent to Joseph McKay to inquire what the intentions of the Indians were? A. I heard as I say, that the messenger returned, and that Mr. Ballantyne told me that the Indians were on their way down, and that is all I heard.

Q. And didn't you hear also that they were quite friendly and that they were only coming to see the agent and get some tea and tobacco? A. No, not at that time.

Q. When did you hear that then? A. I heard that when the messenger was sent up first, that the Indians were coming down in a body to see the agent, but what they wanted, I did not know until Poundmaker told me himself that he came down to get tea and tobacco and moccasins from the agent.

Q. A message did come then that the Indians were coming down to see the agent, was that message from Joseph McKay? A. No, I did not see Joseph McKay at all.

Q. Was the message from him? A. I saw no message.

Q. Was the message that you heard informing you that the Indians were coming down to see the agent, did that message come from Joseph McKay? A. No.

Q. It did not? A. No.

Q. From whom did it come? A. I don't exactly understand. I did not see any message. I never saw Mr. Joseph McKay and his message.

Q. Did the news about the Indians coming down to see the agent come from Mr. Joseph McKay; I don't mean that you saw Joseph McKay, but was he the author of the information that was brought? A. Of the Indians coming down, the first news that we heard?

Q. Yes? A. No, that is what I say. I say that the first intimation, news that I got of the Indians coming down was from an Indian. On the strength of this information that I gave to Mr. Rae, a messenger was sent to Mr. Joseph McKay's

reserve to find out if it was so; and then a messenger was sent up, and the messenger returned and confirmed what we had heard.

Q. What message did he bring? A. That, I say, I don't know. I did not see the message.

Q. And you did not hear then that the Indians were coming quite friendly and only to get some tea and tobacco? A. I heard that they were coming down at the time, that those Indians told me that they were coming down to see the agent.

Q. Well, what about the rest? A. Well, that is all I heard at that time.

Q. Did Poundmaker tell you, when you met him outside of Battleford, that he did not mean to—that no harm was intended and that he had sent a message? A. He told me that he did not mean any harm when he came down.

Q. Did he tell you that he had sent a message to tell the agent that he was coming? A. I think he said something about a message when we were quite near the town, just before he came in.

Q. In Poundmaker's own demeanor at that time, did you see anything to cause any uneasiness? A. Well, not in himself.

Q. He seemed to mean well and did not show any signs of meaning any harm? A. No, not himself.

Q. Yellow Mud Blanket was with him? A. Yes.

Q. Did he show any signs of hostility or meaning any row? A. He did not; none of them spoke much. They sat quiet all the time they were staying there. Poundmaker was sitting all the time that I was there.

Q. What did you see now besides the taking of that hay to alarm you? A. They complained to be hungry, and Poundmaker appeared to be anxious to see the Indian agent, and they had repeated it so often that they were hungry and wanted something, some tobacco. They had no tobacco nor tea, and I then told them that I would give them something to eat and some tea and tobacco in the meantime, till such time as the agent came across. No doubt if he heard that they were in town, he would come across; so that if in the meantime he would send one of his young men and the other chiefs each send a man down with me to the store, I would give them some tea and tobacco.

Q. And you did give them some, I believe? A. Yes, I then went down and gave them some.

Q. Then after that you went across to Mr. Rae? A. When I was in the store, after I had given them what I intended giving them, some of the other Indians, not Poundmaker himself but the other Indians, commenced asking some articles from me, so I told them that I had given them all that I intended to give them and to get out. So with that they went out and I locked the store.

Q. Was Poundmaker there then? A. Poundmaker had come in there, he asked me for a piece of tobacco and Mr. Ballantyne was there in the store at the time, and I told him to give him a piece.

Q. And he got it and went away? A. And went away.

ALEXANDER DAVID STEWART sworn:—

Examined by Mr. Casgrain:

Q. Looking at that letter (Exhibit No. 1) do you know that handwriting? A. Yes, I know the writing.

Q. Whose is it? A. Louis Riel's.

Q. Who is it signed by? A. Signed by Louis Riel.

JOHN SHERA, junior, sworn:—

Examined by Mr. Casgrain:

Q. Did you have occasion to go from Swift Current to Battleford last spring? A. Yes.

Q. In what capacity? A. Going with supplies to Battleford.

Q. What supplies? A. Government supplies.

- Q. Who for? A. The Government, they were for the troops at Battleford.
- Q. What time was this? A. This was in May last.
- Q. About what date? A. Well, it was the second trip we were going.
- Q. Can you tell me about the date, it was in May? A. In May, yes about the 13th or 14th.
- Q. You were going from Swift Current to Battleford? A. Yes.
- Q. How many teams? A. There was twenty-nine teams, I think, altogether.
- Q. Did anything happen on the way? A. Yes, we were caught by the Indians about nine miles from Battleford.
- Q. What Indians? A. Poundmaker's.
- Q. Do you know the prisoner? A. Yes.
- Q. Was he there? A. I don't know whether he was with the Indians or not when we were caught. I did not see him.
- Q. Where were you taken to? A. We were taken to the camp.
- Q. Did you see him there? A. Yes.
- Q. What was done with the provisions? A. Well, they took all the provisions to the camp and eat some of them, eat all they could and took the rest along with them.
- Q. They detained you there? A. Yes, they kept us.
- Q. How long? A. They just kept us about two hours in that camp and they started to move on towards Duck Lake.
- Q. They were going towards Duck Lake? A. Yes.

By Mr. Robertson:

- Q. You say the Indians were Poundmaker's Indians and all the reason you have for saying that is that when you were taken in you saw Poundmaker in the camp? A. Well, we were told it was him, his braves—some on them. I don't say they were all his. I don't know whether they were or not.
- Q. And you only know from what you were told about any of them? A. Yes.
- Q. Did you see a half-breed in command of the party that took you? A. Yes.

By Mr. Casgrain:

- Q. Was the half-breed in command of the whole camp? A. Well, we always seen a half-breed speaking there and he seemed to be running the thing.
- Q. Speaking with whom? A. The Indians.
- Q. Was he speaking to the prisoner? A. No, I don't think I ever seen him speaking to the prisoner.

By Mr. Robertson:

- Q. You say you thought he seemed to be running the camp? A. Well, some half-breeds every morning would get up and make a speech before the camp would start.
- Q. What was his appearance? A. He had whiskers, a short man with grey whiskers.
- Q. And a hooked nose? A. I am not sure, he did not speak English.

WILLIAM TOMPKINS sworn:—

Examined by Mr. Scott:

- Q. Where do you live? A. Carlton.
- Q. Up to what date? A. Up till 18th March.
- Q. What happened on that day? A. We left for One Arrow's reserve, Mr. Lash and I.
- Q. Did anything happen to you? A. We were taken prisoners.
- Q. By whom? A. By Riel.
- Q. Louis Riel, anyone else? A. Gabriel Damont stopped us first, and then Riel came up and said he would detain us for a few hours.

- Q. Were there any others present besides those two? A. Yes, quite a number.
- Q. Where were you taken to? A. Taken to the church.
- Q. What was the condition of these men that took you, as to being armed, were they armed? A. They were all armed principally.
- Q. What was done to you when you were taken to the church? A. We were kept there, and then we were removed from that over to Walter's store.
- Q. Where? A. Across the river.
- Q. Were there any others there besides that party who took you prisoner? A. No; I don't think there were, we were the first there, there were none at the church when I arrived there.
- Q. Well, did you see a larger number there afterwards? A. Yes.
- Q. How many? A. I should judge about 300, taking them altogether 300 or 400.
- Q. Had they a leader those 300 men? A. Yes.
- Q. Were they armed? A. Yes.
- Q. They were all armed? A. Yes.
- Q. Who was the leader? A. Louis Riel.
- Q. You say you were taken over to Walter's store about when? A. That night.
- Q. The night of the 18th? A. Yes.
- Q. How long were you kept prisoner by Louis Riel and these men? A. Two months all but a day.
- Q. You were taken prisoner on the 18th? A. Yes; all but a day I think.
- Q. What day were you released? A. 12th May.
- Q. Do you know what the object of this movement was; do you know what those men intended to do who took you prisoner? A. Riel wanted to start a new government apparently, by his talk.
- Q. Did he say so? A. Yes.
- Q. You heard him say that? A. Yes.
- Q. Did anything happen on the 25th March? A. On the 26th, the battle of Duck Lake took place.
- Q. Where were you at that time? A. At Duck Lake.
- Q. Near the battle? A. About two or three miles I should judge.
- Q. How do you know that a battle took place on that day? A. I could see the firing.
- Q. You heard firing—did you hear anything about it afterwards? A. Yes.
- Q. From whom? A. Riel.
- Q. How long afterwards? A. I should judge about two hours or an hour and a half.
- Q. What did he say about it? A. He was thanking God for such a prosperous victory.
- Q. A victory over whom? A. Over the volunteers and police.
- Q. At Duck Lake? A. Yes.
- Q. Do you know of any fights afterwards? A. Yes.
- Q. That Riel and his party were engaged in? A. Yes.
- Q. With whom? A. With General Middleton.
- Q. Anyone else, he was not alone? A. His troops.
- Q. Do you know an Indian named Chi-ci-cum? A. Yes.
- Q. What is his other name? A. Boss Bull they call him.
- Q. What band does he belong to? A. Beards's.
- Q. That band I understand occupies a reserve in the immediate vicinity of Duck Lake? A. Yes.
- Q. Did you see him among those in that party? A. Yes. I was talking to him.
- Q. When? A. I don't just remember the date, but, mind, I was talking to him through the window when I was a prisoner.
- Q. Where? A. At Batoche.
- Q. When were you taken to Batoche; you were taken first to the church and then you were taken over to Walter & Baker's store, and were you taken to Batoche

from Walter & Baker's store? A. We were moved to the church on the next morning after we were taken across the river to Walter's store.

Q. And on the 27th you were moved back to Batoche into the church, were you? A. Yes.

Q. How long did you remain in the church? A. I remained there till the night these half-breeds came up, and they said if we would give them all of us our word of honor that we would not try to escape, he would send us to the Garnot restaurant.

Q. You went to Garnot's on the 24th? A. Yes.

Q. Was it after you went to Garnot's you were speaking to Chic-i-cum? A. No, it was when we came back from Carlton to the best of my knowledge.

Q. Where were you put when you came from Carlton? A. Put into Baptiste Boyer's house.

Q. How long did you remain at Baptiste Boyer's house? A. We remained there and in the cellar until 12th May.

Q. Was it after you went into Garnot's house, after you were taken to Garnot's house that you went to Carlton? A. Yes, we were removed from Garnot's house to Duck Lake and from Duck Lake to Carlton.

Q. And then you came back from Duck Lake, after and after coming back from Carlton to Duck Lake you left Duck Lake and came to Batoche? A. We left Carlton and came to Batoche.

Q. Where were you put when taken back from Carlton? A. Baptiste Boyer's house.

Q. What day was that?—A. I don't remember.

Q. How long after the Duck Lake fight? A. 3rd April, I think.

Q. It was after that time you had the conversation with Chic-i-cum? A. Yes.

Q. What did he say? A. He said he had been away and just got back and that he was going away again.

Q. Anything else? A. No, nothing else that I mind of.

Q. Did he say where he was going to? A. He did not tell me exactly where he was going to, but I found out from another party where he was going.

Q. Was he in arms then? A. Yes.

Q. Did he form one of the party that had risen there that were under the leadership of Riel? A. Yes.

WILLIAM LIGHTFOOT, sworn:—

Examined by Mr. Casgrain:

(Through interpreter in Cree, Peter Hourie, sworn.)

Q. What band of Indians did you belong to in the spring? A. Red Pheasant's band.

Q. Did you have occasion to go to Poundmaker's reserve at any time? A. When we were sent for, we went.

Q. Did you go to Battleford? A. Yes.

Q. Did you see the prisoner there? A. Yes.

Q. What was the prisoner doing there? A. I saw him in a store there at Battleford.

Q. What was he doing in the store? A. He was looking over the store, the things in the store, one thing and another.

Q. What was he looking over them for? A. I thought he was looking for something.

Q. Was the master of the store there? A. No.

Q. Was there anybody else in the store but Poundmaker? A. No, he was not alone.

Q. Who was with him? A. I could not tell particularly which persons were along with him, because there were a large number of them.

Q. What kind of people were they? A. Crees.

Q. Is that all Poundmaker did there. Look over the things? A. That is all I seen him do there at that house.

Q. Did you see him do anything at any other house? A. No.

Q. Did he go into any other house? A. I did not see him.

Q. Did he go into a barn or any kind of a construction? A. I did not see him any other way to go in any other place.

Q. Did you see Poundmaker after this at any time with goods belonging to people in Battleford or near goods, or with any goods in his possession? A. On top of the hill at Battleford, I saw a bundle of goods lying alongside of where he was sitting. I could not say where they came from.

Q. How long was it after you had seen Poundmaker in the store that you saw the goods near where Poundmaker was sitting? A. It was the same night that he was overhauling the things at the store, that same evening, towards night, I saw this bundle of goods with him.

Q. Did you see Poundmaker do anything with those goods, these bundle of goods afterwards? A. No.

Q. Did the other Indians who were with Poundmaker do anything in the store there? A. I saw people walking back and forth there, but I never saw any at the time take any. I saw them inside of the store and outside of the store.

Q. Did you see the Indians with any goods? A. When I saw them afterwards I saw them with goods, clothing that they had on themselves.

Q. Where did it come from? A. I could not tell where that came from, but I only could say that I saw them having those clothes with them, on them.

Q. Had you seen these clothes in the store before? A. I could not recognize them to say that I seen them in the store, but I know they were new clothes.

By Mr. Robertson:

Q. What time of the day was it you saw Poundmaker looking through the goods, among the goods? A. In the night.

Q. You told us that you saw the goods with, beside, Poundmaker in the evening of the day on which you had seen Poundmaker in the store? A. I did not say it was on the day, but it was already night.

Q. It was in the evening then, is that what you mean? A. At night.

Q. Was the sun down? A. At night, it was dark. I saw him when I went into the store.

Q. What were you doing in the store at night? A. When I was going by, I saw a light in the store, so I went in to see what was going on.

Q. How long after that was it that you saw the goods near where Poundmaker was sitting? A. It was soon after.

Q. Was there anyone else there with Poundmaker? A. No, there was nobody with him at the time, just then he was sitting alone.

Q. Where was Yellow Mud Blanket? A. I could not say where he could have been.

Q. Where was Grey Eyes? A. I could not tell positively where I had seen them, because there were so many of them.

Q. Where was Grey Eyes when you saw the goods on the ground where Poundmaker was sitting? A. I could not say.

Q. Do you know Wawpass and Mettaywaysis? A. I know Mettaywaysis is a Cree.

Q. Do you remember Wawpass and Pettaywaysis coming to Red Pheasant's reserve one night with tea and tobacco, or with tobacco, from Riel? A. Is it a half breed you mean? It must have been Wawpass Trottier. I don't know exactly which man it is, I think there is two of the one name, but I don't know which of the two but there was a half-breed of that name that I thought Wawpass was his name.

Q. Were there two half-breed messengers from Riel with tobacco that came to Red Pheasant's band, to his reserve? A. There were two.

Q. Were you their guide and did you take them over to the Stonys' reserve?
A. They knew where the reserve was, it was but from our party being rather doubtful he was sent after them to go and listen what he would say to these Assiniboines.

Q. Do you know Mr. McRae? A. Yes.

Q. Did you tell Mr. McRae, at Battleford, that these two men had asked Red Pheasant for a guide to take them over to the Stonys, that Red Pheasant had refused to give them a guide and that then he with four others, against Red Pheasant's wish, took them over? A. I told him there were four of us went to these people, that is what I said to him.

Q. Did you tell Mr. McRae on that occasion that Red Pheasant refused to send a guide and he went in spite of that? A. What I said to him was this: I said that I would go to them for one, so I asked the people then that three of them should come with me to hear so that we might all be able to know, and three people's more word would be stronger than one as it were, that it would be more reliable than one person.

Q. That is what you told Mr. McRae? A. The chief's brother was going to send that one; the chief himself was going to send that one. I was told that I would go and I asked that three others would go with him.

Q. Were you fighting at Cut Knife? A. No.

Q. Were you near Poundmaker at Cut Knife? A. No, I was not near him at all.

Q. Did you see Poundmaker at Cut Knife at all? A. I saw him I don't know how many days afterwards.

Q. Did you see him at the fight? A. No, I did not see him at all.

Q. Where were you on the day of the fight? A. I was away, far away on one side.

Q. Which side, near the women and children or the other side? A. I was up the river side.

Mr. Osler states that this completes the case of Crown.

DEFENCE.

JOSEPH MACKAY sworn:—

Examined by Mr. Robertson:

Q. Mr. McKay, you were the farm instructor on Strike-him-on-the-back's reserve, I believe; were you in the month of March last? A. Yes.

Q. Do you recollect seeing the prisoner, Poundmaker, at any time towards the end of March? A. I did.

Q. Where did you see him? A. In my house.

Q. In your house, on Strike-him-on-the-back's reserve? A. Yes.

Q. How far from Battleford? A. Well, it is about twenty miles, I suppose.

Q. Do you know what day of the month or what day of the week? A. I think it was on Sunday in the latter end of the month.

Q. That would be the 29th? A. Yes, why I think so, I was just about writing to try and finish my books and go back with the returns.

Q. It would be about the end of the month? A. Yes, about the end of the month.

Q. But the evidence is that Poundmaker was at Battleford on the 29th? A. Well, this was on Sunday, I think.

Q. Will you tell me what took place between you and Poundmaker at that time?

Mr. Osler.—How is this evidence?

Mr. Robertson.—You have gone into a long course of conduct on Poundmaker's part—

Mr. Osler.—What he says is not evidence.

Mr. Robertson.—Well, you have given a great deal of evidence.

Mr. Osler.—It is for us to give evidence.

Mr. Robertson.—My learned friends have given a great deal of evidence about things said and done by others.

Mr. Justice Richardson.—Isn't that proper, in a case of this sort? What was said and done?

Mr. Robertson.—Yes, it is, and it is just because it is a peculiar case, that I wish to give what Poundmaker says as part of the *res gestæ*.

Mr. Justice Richardson.—Have you any authority for it?

Mr. Robertson.—If a prisoner is charged with stealing a horse, and he wants to call evidence to show that he told a person ten minutes before that he was not going to steal the horse—

Mr. Osler.—It is very likely what would take place, so as to have something to fall back upon.

Mr. Robertson.—I want to show the conduct of this band of Indians on their way from their reserve to Battleford.

Mr. Osler.—I don't object to that. I only object to your giving evidence of his statement.

Mr. Justice Richardson.—He may say what he saw Poundmaker do, that is perfectly legitimate. I can understand that, on the same principle as put before about the horse stealing, but not what the man said.

Mr. Robertson.—I want to show what he said as to the object of his journey.

Mr. Justice Richardson.—His actions may be given in evidence, but not what he said.

By Mr. Robertson:

Q. You saw Poundmaker at all events? A. Yes, I saw him.

Q. Did he come to your house? A. I sent for him.

Q. He and a number of Indians with him had come to your reserve that morning? A. Yes. I did not see a number of Indians with him, at all. I heard there was a number of Indians with him, but I did not see a number with him.

Q. What was his conduct on that occasion? A. I asked him what was he going—

By Mr. Osler:

Q. Don't give that evidence. What did he do? A. He done nothing. I saw nothing wrong with him when he came into my house.

By Mr. Robertson:

Q. Had he a gun? A. No, I did not see him with a gun.

Q. How long did he remain in your neighborhood? A. Oh, just a very little while; he just had a cup of tea and something to eat, and I talked to him just a little while and he went off.

Q. You say there were not many Indians with him? A. I did not see many Indians with him.

Q. When did you next see him? A. I saw him four or five days after, in Bremner's settlement.

Q. Where is Bremner's settlement? A. Between twenty and twenty-two miles from Battleford.

Q. Well, where is it from your reservation? A. It is north from my reservation, about six miles from my reserve north.

Q. Is that the half-breed settlement? A. Yes, that is the half-breed settlement.

Q. You were then staying with the Bremner's? A. Yes, I was hiding in a tent when I heard he was coming.

Q. What was his conduct and bearing then? A. I did not know. I did not go out. I told Mrs. Mackay to stand outside the tent door and tell the Indians (they threatened my life), to kill me whenever they saw me. I was told that by other Indians, and that is why I hid in my tent.

Q. Well, did you see Poundmaker? A. Yes, I saw him in the house, I went in to see him. I asked to see him.

Q. Now when was that? A. That was about four or five days I think after, after I went to Bremner's settlement.—I can't remember rightly the day of the month.

By the Court :

Q. Four or five days after the 30th? A. After the time they pillaged everything, this was after they pillaged my store that I went to Bremner's, after I was robbed of everything.

By Mr. Robertson :

Q. How long after the interview when he was on his way to Battleford? A. It might be perhaps, since the last time I saw him, perhaps six or seven days.

Q. Well, you did see him then, and what was his demeanor then? How did he behave himself then? A. He behaved himself very well at the time I saw him there again. I went in to ask them what was the reason the Indians wanted to kill me, and I told him I thought I never injured anybody, Indian or white people, and I asked him what is the reason he wants to kill me, and he said the old people have nothing against you, but the young men he says we cannot control.

Mr. Osler.—I don't like to object but you have no right to give this evidence, Mr. Robertson.

By Mr. Robertson :

Q. How long have you known the Indians? A. Oh, I have known them, I have seen them quite a while ago. I suppose about twenty years since I saw them first, but it is a long time between that, that I did not see them again till I came up there at Battleford.

Q. That was Poundmaker? A. Yes.

Q. But the Indians generally, how long have you been acquainted with the Indians, the bands, councilmen of the Indians? A. A long time. I was born in the country and was all my life time amongst them.

Q. And you know their habits and customs do you? A. I know them pretty well, I think.

Q. Was there anything unusual, anything extraordinary in the Indians taking their guns with them when they were going to Battleford? A. It has been always the habit of the Indians wherever they go, to carry their guns wherever they go.

Q. And would that indicate any evil intent necessarily, their having guns with them? A. Well those that knows the nature of the Indian would never pay any attention to it.

Q. You never think anything of it? A. No.

Q. What is a soldier's tent in an Indian camp? A. A soldier's tent means—it is the young men, the braves gather and they form a sort of a rule, and it is the young men, and it is the young men that rules the soldier's tents. It is the braves and not the chiefs that rules it, it is generally the young men, braves, the chief rules the camp outside such as pitching if they want to go off anywhere, but it is the braves that have the rules of the council.

Q. What is the effect now when a soldier's tent is pitched in a camp; what effect has that upon the authority of the chief? A. Well, if any Indians would want to go away, if the soldiers would not let him go, they would go and kill his dogs or cut up his tent, he could not go off unless the soldiers let him go.

Q. Supposing the chief ordered that he was to go? A. Well, if it was against the soldiers, they could not go.

Q. Then it amounts to this that the soldiers, the young braves, took the complete control of the camp? A. When they have a soldier's tent up.

Q. Poundmaker has been an influential man in his tribe? A. Lately, but at the time I knew him he was just an ordinary Indian, ordinary man as other Indians.

Q. It is only lately that he had much influence at all? A. Yes.

Q. From what you know of Poundmaker and his Indians and the Indians on your own reserve, what do you say as to the control Poundmaker could exercise over those Indians?

Mr. Osler.—I object to that question, it is a matter of opinion, he must tell us facts and we will judge of that, he must tell us what he knows, not his opinion.

Mr. Robertson.—Then I suppose my learned friend is not going to ask the jury to draw an inference that he was a thief, from the evidence he has given?

Court.—If it is a legitimate question—if you can convince me it is a legitimate question, you can have his answer, if not he must not answer.

Mr. Osler.—My objection is that the witness must state facts from which the opinion is formed.

Court.—That is as I recollect the rule, it may be altered; if there is any modern rule that will admit such a question, let us have it.

Mr. Robertson.—The question is a good one, I submit to Your Honor, as a question to an expert witness who has said all his life he has been acquainted with the habits and customs of the Indians, the habits and customs of Indians are rarely a matter of expert knowledge, so far as we are concerned, and it is proper to ask the witness, having shown that he has a special knowledge, for an opinion which depends on that knowledge, special knowledge.

Court.—In the first place, is there any custom which would hold in law, I mean, in this country?

Mr. Robertson.—It is not a custom as matter of law that I am seeking to prove at all, it is for the purpose of affecting the probabilities of the case.

Court.—You may ask what the man's general character was, just as if he were charged with stealing a horse, and ask the jury then to draw an inference from what was said, whether he would likely have committed the crime.

By Mr. Robertson:

Q. What instances have you seen, or have you seen any instances of the cases in which conflicts have arisen between the chiefs and their men—I mean conflicts of wishes, one wishing to do one thing and another another? A. Well, I know one instance when I was in the Hudson Bay service at Touchwood Hills when I was going out hunting.

Mr. Osler.—That is not evidence.

By Mr. Robertson:

Q. Do you know of any instance? A. Not with him, because I hadn't a chance, it is long since they had a soldier's tent up you see.

Cross-examined by Mr. Osler:

Q. Do you know anything personally as to soldier's tents? A. Yes, when I was in the company's service—

Q. You know something personally? A. Well, I know personally what they have done to me personally by their soldier's tents, that is what I know.

Q. That is all you do know? A. That is all I do know.

Q. You don't know the habits of tribes? A. No, for each—

Q. Each various tribe or band has a variation in its habits, they vary? A. Soldiers' tents are very much all alike.

Q. Poundmaker of late years has become a very influential man in his tribe? A. So I heard. I did not know it personally myself, not since long ago.

Q. He is an orator I believe of considerable power? A. So I heard.

Q. And influence? A. Yes.

Q. Has he a large following, a large number of followers? A. I don't know the number of men he has, it was just only a few days I was on the reservation; it was in March I went out there.

Q. When was it you took an idea in your head that somebody was chasing you, what day? A. I think it was Tuesday or Wednesday morning, just the following week.

Q. That would be about the 1st of April? A. Yes, either the last day of March or the 1st April, sometime like that.

Q. Whose band was it you were in fear of? A. My own Indians, it was my own Indians that robbed me.

Q. Those Indians? A. No, Strike-him-on-the-Back and Sweet Grass.

Q. And you left? A. Oh, yes, I left.

JOHN CRAIG, sworn :—

Examined by Mr. Robertson :

Q. You were instructor on Little Pine's reserve, I believe, in March last? A. Yes.

Q. Did you see Poundmaker at any time towards the end of March? A. I did, on Friday the 27th.

Q. Where was he? A. In my house.

Q. On the reserve? A. Yes.

Q. Was he accompanied by any Indians? A. Two or three.

Q. What was his behavior then? A. It was good.

Q. Did he show any signs of excitement? A. He did.

Q. What about? A. Of fear.

Q. Fear of what?

Mr. Osler :—

Q. You must not say what he said, what he did. A. He did nothing.

By Mr. Robertson :

Q. What did he do, did he go away? A. Yes.

Q. Where did you see him next? A. 8 miles from Battleford.

Q. How did you happen to be there? A. I went into his camp at night.

Q. On your way to Battleford? A. Yes.

Q. Where did you spend that night? A. With them.

Q. Was Little Pine there? A. He was.

Q. And where was Poundmaker? A. He was there too.

Q. Where did Poundmaker sleep? A. He slept close beside me, about five yards.

Q. What day of the month was that do you know? A. Sunday night, the 29th.

Q. What was the demeanor of Poundmaker then, how did he treat you? A. He treated me very kindly.

Q. Did you feel at all alarmed? A. To a certain extent.

Q. At what? A. At the excitement they were in.

Q. Who? A. The Indians in general.

Q. Did Poundmaker do anything that caused you to feel any alarm? A. He did not.

Q. Was any attempt made to stop you from going away in the morning? A. Not in the morning, but that evening.

Q. Who stopped you? A. Some of the young men.

Q. That was the invitation you got to stay all night? A. Yes.

Q. And you thought that they meant it rather peremptorily? A. Yes, a kind of that way.

Q. They did not use any violence? A. Oh no, not at all.

Q. And then it was that you spent the night with Poundmaker and Little Pine? A. Yes.

Q. Well, when you went away in the morning, was any attempt made then to stop you? A. Well, they hollered to me to come back, but that was after Poundmaker and another councillor previous to that had told me I could go now, to hurry up.

Q. And they sent you off? A. Yes, telling me at the same time everything was good, there was nothing wrong.

Q. Were there any women with the Indians? A. There were.

Q. A considerable number? A. About twenty I judged.

Q. Were any of the men painted in war paint, or were there any signs of any hostility? A. The young men were.

Q. Had they the war paint? A. Oh, yes, but that is a common thing for them to wear.

Q. They were painted as they were commonly painted? A. Yes.

Q. But I asked about war paint, did you recognize any difference? A. No.

Q. Do you know to what extent the influence of Poundmaker with his tribe extended? A. That night you mean?

Q. Yes? A. He had no command of other Indians no more than the other chiefs.

Q. He had no command over the Indians that night any more than the other chiefs? A. No.

Cross-examined by Mr. Osler:

Q. Who was it kept you safe in the camp? A. I don't know.

Q. Who was it got you the permit in the morning to go? A. I cannot say, it was one by the name of Chicoutis.

Q. Who told you you could go, and go now? A. Chicoutis.

Q. A chief? A. A councillor.

Q. Did Poundmaker say anything to you about it? A. No, he did not.

Q. What took you down there? A. I was going to Battleford at the end of the month.

Q. For what purpose? A. With my returns.

Q. And you went into this camp? A. It was on the road, I could not pass it without going in.

Q. And some of the young men asked you to stay that night? A. Yes.

Q. And Poundmaker took you in? A. Well, he was sitting right down there when I came in, and I took the side of him.

Q. You told us, as I thought, that Poundmaker said it was all right, that there was nothing wrong? A. I said nothing of the sort. I said this other Indian, this other councillor said to me in the morning, told them everything is good, we mean no bad. That was the words that was said.

Q. That is what the councillor told you? A. Yes, but he is no councillor to this man, he is councillor to the chief Little Pine.

Q. Who told you that you could go, and go now? A. Chicoutis.

Q. Well, who was it detained you there, and who was it let you go? A. I don't know his name. They took and engaged my horse, unhitched it. I did not see the man that unhitched my horse. They took him from the buggy.

Q. That was a mere act of hostility? A. Yes, in a kind of a way.

Q. Who was it told you to go and go quickly, in the morning? A. The same party I mentioned to you now.

Q. Just speeding the parting guest, is that all? A. They told me to hurry up.

GREY EYES, sworn:

Examined by Mr. Robertson:

Q. Were you at Battleford the night the stores were robbed there? A. Yes.

Q. Where was Poundmaker that night? A. He was on the top of the hill where the brick building was.

Q. Where were you? A. I was there too.

Q. With him? A. Yes.

Q. When did you go there, what time of the evening? A. After we had had a talk with Mr. Ballantyne, there was a white man there, that was writing down.

Q. What time of the day was that? A. It was towards evening. I could not tell exactly what time. I have no watch or anything to go by.

Q. And where did the white man go? A. Peter Ballantyne and the white man went down the hill.

Q. Went down what hill, and in what direction? A. The road that goes down the trail, that goes down to the Battle River.

Q. Across to the barracks? A. I could not say where they went, whether they went across or not, but it was just after Poundmaker and Little Pine had told what their errand was, what they were coming for, and then they went away.

Q. Then, where did Poundmaker go after they went away? A. He remained there at the brick building and they were looking something to eat.

Q. How long did you remain with Poundmaker? A. Till night.

Q. And how long into the night? A. It was a good ways into the night, pretty late, I left him sitting there and I thought I would go to sleep and I went to a tent that was there close by, and I could not sleep and there was another tent where they were cooking, and I went over there and had something to eat with them.

Q. Did you see Poundmaker after that? A. I came back then to where I had left him, and he was there still where I had left him.

Q. How long had you been away? A. I must have made a mistake there, we had made up our bed to sleep close by the brick building, you asked me how long after I left Poundmaker till I came back again, and I was not away longer then I had something to eat, the mistake was in the day that we had something to eat, after we had had a talk with Ballantyne and explained all that, we were waiting then, and I left him there and went to have something to eat at this tent, and then I came right back to where he was then.

Q. How long were you away that last time when you were getting something to eat at the tent? A. It was not long.

Q. How long? A. It must have been half an hour. I was sitting there with my brother and Capin-ow-way-win when I came back and I must have been about half an hour gone. I had something to eat and lit my pipe and had a smoke, and after that, I went out and went back again.

Q. Did you see any goods, any bundle of goods near where Poundmaker was sitting when you came back? A. No.

Q. When you came back, what happened next; what did you do next? A. We sat there in one place, we did not go anywhere.

Q. How long did you stay there? A. A long time.

Q. Till when? A. It was very near daylight at last.

Q. You sat there all the time? A. I left him there again, and I heard him calling out to the people, stopping them from what they were doing.

Q. What were they doing that he was stopping? A. I heard them making a noise, breaking open something and he called out to them to keep quiet, but of course they would not listen to him.

Q. Did Poundmaker have any goods at any time that night? A. I saw nothing.

Q. Could he have had any without your seeing them? A. I did not perceive that he had anything at all, just no more than his clothes.

Q. Could he have had anything extra without your seeing them? A. I saw nothing with him at all, all the time that I was there.

Q. Could there have been any goods there without your knowing it? A. I saw nothing at all with him that I could think that he had anything, any goods along with him.

Q. What did Poundmaker do, or did he do anything besides calling out to them to stop? A. I heard him calling out to the people stopping them, and with that there was three or four men along with him that went down the hill then to go and stop them and speak to them down the hill.

Q. How long did you two remain at Battleford? A. Just about daylight we left to go home to our reserves.

Q. Daylight next morning? A. Yes.

Q. Where did you two go to on the reserve? A. We went into Strike-him-on-the-back's reserve at Sandy Hills. That is where we stopped.

Q. How far did you go on your own reserve? Did you go up to Cut Knife Hill? A. We got to our tents on the side of Cut Knife Creek.

Q. How long did you two remain there? A. I think next day we rose camp just close by there, on the same side of the creek yet.

Q. How long did you remain there? A. I could not tell how many nights I might have remained there, but when we rose camp and came from there, we just camped quite close by there again, on the same side of the creek.

Q. Generally how long did you remain at Cut Knife? A. (Prisoner says he is not able to tell, because they were there forty nights.)

Q. Do you remember messengers coming from Riel? A. I knew when they came. I was lying already when they came.

Q. Lying down asleep? A. I got wounded and I was lying when they came.

Q. Where were you wounded? A. Inside of our reserve I got wounded.

Q. Before you were wounded, do you not remember any of Riel's messengers coming? A. No, I did not see anyone. I heard that they come at Eagle Hills.

Q. Do you know Wawpass Trotter? A. No.

Q. Do you know Jobin? A. No, I don't know any of these half-breeds at all, only a chance one that I know.

Q. Do you know the schoolmaster at the French settlement? A. No.

(It is suggested that the witness knows the man, but he does not know the name.)

Q. Don't you know the schoolmaster at the French settlement? A. No, I don't know.

Q. Do you know of anybody trying to get the Indians to go up to Batoche? A. No, I don't know anything at all about it. I was lying all the time, how could I know; it was far, and between that the chief would come and see me.

Q. Had Poundmaker enough influence in his camp to prevent the Indians from going away to join Riel? A. He could not stop them from going away, because he tried to take us away, one day, from the rest of the party, and he could not manage them.

Q. Did Poundmaker try to take you any place, and where? A. He tried three times, and they would come and take our horses and lead them back into the camp.

Q. Did Poundmaker try three times to go? A. Yes; and his brother and, at last, Lightfoot was to come with us two again, and the Assiniboines just closed in and brought us back again.

Q. Who was in command of the camp at Cut Knife? A. The soldiers' lodge and Assiniboines.

Q. Who built the soldiers' lodge? A. The Assiniboines were the men that put up the soldiers' lodge, and, in fact, they had been keeping up their dances the whole winter.

Q. When was the soldiers' lodge put up in the camp at Cut Knife? A. It was just soon after we had encamped there.

Q. Were the Assiniboines the same as the Stonys? A. The same.

Q. Was it when the Stonys came in that they put up the soldiers' tent? A. Yes, it was after they came into the camp, but not just right away immediately; but I could not say how many days it was from the time they had come in, and that the lodge was put up—I could not say what number of days.

Q. What power has the chief among the Crees and Stonys when a soldiers' lodge has been put up in the camp? A. The chief has no control over anyone when that soldiers' tent is up.

Q. Who has the control? A. The soldiers, the dancers of the lodge.

Q. Was Poundmaker one of the soldiers? A. No.

Q. Who were the soldiers? A. The Assiniboines were.

Q. And Crees? A. There were some Crees, they took them in, that is the reason why they joined them.

Q. Were there any half-breeds there? A. No.

Q. No half-breeds among the soldiers? A. None at all.

Q. Were there half-breeds in the camp? A. There was none into our camp, but they had a camp of their own a piece one side.

Q. What half-breeds were those? A. I don't know any names, I don't know their names, but it is the half-breeds from that place.

Q. From what place? A. From Bremner's, across the river.

Q. Do you know who brought in the teamsters? A. I could not say, because I was not able to move at that time.

Cross-examined by Mr. Osler:

Q. What band do you belong to? A. Poundmaker's.

- Q. Is Poundmaker your chief? A. Yes.
- Q. Do you obey your orders? A. Yes.
- Q. Do you feel bound to obey them every time? A. Yes.
- Q. And all good Indians do? A. Yes.
- Q. Is Poundmaker a good chief, of great influence with his men? A. He is good to his men and we always hear him giving them good advice.
- Q. How many men has he got? A. I could not tell what number, there is quite a few.
- Q. How many Stonys or Assiniboines came into the camp, to your camp? A. I suppose there must have been about sixty or more.
- Q. Were there more Stonys than followers of Poundmaker? A. We are far lesser in number. Poundmaker has far less.
- Q. Had Poundmaker less than sixty men? A. Yes, a long ways, I mean as many of us as belong to Poundmaker.
- Q. When you came back from Battleford that night, had you any goods with you? A. I had none myself, but I seen people with goods.
- Q. You saw people with goods? the band had goods with them? A. I saw them with goods.
- Q. What was done with the goods? A. I could not say, I suppose they wore them.
- Q. Took them into the camp? A. They took them home with them—living in different parts.
- Q. Did Poundmaker go out when he heard them breaking into the store? A. He stopped them first by talking to them, and said young men you are frightening me now, keep quiet he told them.
- Q. Weren't they just disturbing him from sleeping? A. No, there was no one sleeping while this was going on.
- Q. What time of the night was it? A. It was longways in night.
- Q. Why weren't they asleep? A. We were kept awake by others.
- Q. And wasn't that what was disturbing Poundmaker, didn't he want to keep quiet? A. He was preventing them, but of course they would not listen to him.
- Q. Didn't you do some fighting at Cut Knife Hill? A. I went away and was sleeping.
- Q. Weren't you a man who was fighting? A. I am taken by surprise. I can't answer.
- Q. Didn't you fight? A. I did not fight. I had to run away right at once.
- Q. Joe Alexander says he fired at you three times, isn't that true? A. No.
- Q. Who was it shot you through the leg? A. I could not say who hit me in the leg, but Josie said it was him that shot me in my leg, it was when a ball glanced that hit me in the leg.
- Q. Were you holding a gun when he hit you in the leg? A. I was holding a gun, but I laid it down in the bush.

Court here (6 p. m.) adjourned till 10 a.m. tomorrow, when case resumed.

WESLEY N. FISH SWORN :—

Examined by Mr. Robertson :

- Q. Mr. Fish, you are one of the teamsters who were taken prisoners by the Indians? A. Yes.
- Q. When was that? A. On the 14th May, I think.
- Q. Who was in command of the Indians, who took you prisoner? The breeds.
- Q. The half-breeds? A. Yes.
- Q. Was Poundmaker there when you were taken prisoner? A. No.
- Q. Where were you taken on that occasion? A. We were taken to the half-breed camp.
- Q. Where was the half-breed camp as respects the Indian camp? A. Well, they were to one side of the Indian camp.

Q. Separate from it? A. Yes.

Q. How long did you remain there? A. We left on the 7th day.

Q. You were there six days then and you left on the 7th after you were taken in?
A. Yes.

Q. When you left, how did it happen that you got away? A. Well, there were some scouts came from Riel's camp, and they heard that Riel was taken, and they had a council and concluded to let us go.

Q. You say you were set at liberty? A. Yes.

Q. Now did you see Poundmaker while you were in the camp. A. I did, every day, sometimes two or three times a day.

Q. Were you closely confined in the Indian camp? A. No.

Q. Were you allowed to ramble about? A. Yes.

Q. And all over through the one camp or the other? A. Yes, we used to go any place, almost.

Q. Were you present at any of the councils that were held? A. Yes.

Q. Anyone then would appear to be at liberty there? A. Yes.

Q. And nearly everyone did go? A. Yes, any person that wanted to go.

Q. Whenever there was a council, nearly everyone went? A. Yes.

Q. Whatever their feelings might have been? A. Yes.

Q. Now tell me what was the first you saw of Poundmaker when you were taken in? A. Well, we were taken down hill into a kind of a ravine, and Poundmaker came up and shook hands with us all around and said that he knew there was a God and he thanked Him for saving our lives, he did not thank our braves, he had no control over them.

Mr. Osler.—That is not evidence.

By Mr. Robertson :

Q. Did he speak in Cree? A. Yes.

By the Court :

Q. Do you speak Cree yourself? A. No, the half-breeds interpreted it.

By Mr. Robertson :

Q. That was when you were taken into the half-breed camp and he came to see you? A. Yes.

Q. What was his conduct towards you from that time forward? A. Very good, he used to come to us every night and talk to us, and the breeds would interpret it.

By Mr. Osler : Never mind what he said.

By Mr. Robertson :

Q. He used to come by you every night and talk to you, and the breeds would interpret what he said to you? A. Yes, and he shook hands with us all around.

Q. And you say you saw him every day? A. Yes, two or three times a day.

Q. Will you tell me, while you were in the camp, who appeared to be in command of the camp, the Indian camp? A. The half-breeds.

Q. Any half-breed in particular? A. Yes, there were two half-breeds, it seemed to me that seemed to be in command.

Q. Can you describe them or do you know their names? A. No, I don't know their names. One of them went with a message to Riel, and he was sentenced here the other day with the twenty-four.

Q. That was one of them? A. Yes, a short, stout man.

Q. And who was the other man? A. Short, stout, with grey whiskers and moustache. He treated us very well, but he seemed to be in command all the same.

Q. Now, what did you see in his conduct, in the appearance of his—of the camp generally and the behavior of the people in the camp? A. Well, he gave orders. If anything was to be done he would give orders that it was to be done, and attended to

us, and told us what we were to do and everything. It is almost certain, I can say he was in command of the camp.

Q. Now, do you speak of the Indian camp as well as the half-breed camp? A. Yes.

Q. Was there any routine, any regular daily operations that he went through? A. No, I don't think there was. It just depended on what the next day brought what they would do.

Q. But tell us now what you saw him doing; you have told us in general terms that he seemed to give orders when anything was to be done, just tell us one or two occasions on which you saw him taking a part in that way? A. Well, every time we would stop he would give the order to stop, and every time we would start, he would give the order to start.

Q. Anything else; who sent out scouting parties? A. Well, he was there at the time, and I think he was giving orders in one way and another about them going.

Q. Now, did you ever see Poundmaker during all that time taking any part like that? A. No, never.

Q. He did not? A. No.

Q. Did he seem to take any part in the councils? A. Well, he sat at the councils and spoke. Of course, I could not say what he said. He spoke less than any of the other Indians. I won't say any of the other, but any of the others that did speak at all, for some of course, did not have anything to say.

Q. Do you know what his attitude was at those councils? A. He was very quiet, sitting down.

Q. Was the advice he gave at those councils interpreted to you?

Mr. Osler.—That is not evidence.

Mr. Robertson.—I want to give my learned friend the opportunity to keep this out.

Court.—How could I receive it unless he understood the language?

Mr. Osler.—There are certain definite rules of evidence which I am bound to keep you to and you have no right to say that I am conducting the case unfairly when I object to it.

Mr. Robertson.—I wish the jury to hear that I am prevented from showing the part that Poundmaker did take.

Court.—You are prevented simply because the law says you shall not.

Mr. Robertson.—Your Honor rules that way of course.

Court.—I rule upon fixed law.

Mr. Robertson.—I am not finding fault with that, but I don't think it is so clear—of course I bow to your Honor's ruling—but I don't think it is so clear where it is the conduct of the man throughout that is in question, that what he said when he was taking part in the very things that they accuse him of taking part in—that what he said is to be shut out, when that is the only index you can have of what his intentions were. I don't think it is nearly so clear as what my learned friend says.

Court.—Even then, you have not got the language that was given.

Mr. Robertson.—I asked the witness if it was interpreted to him.

Court.—How does he know whether it was interpreted to him truly or not?

Mr. Robertson.—I did not ask him whether it was interpreted truly or not.

Court.—You have gone as far as you can.

By Mr. Robertson :

Q. Did you see Poundmaker when the news arrived of the capture of Riel? A. I did not see him just at the moment. I was down in one of the tepees at the time and an Indian told me of it and seemed to be very glad of the idea that he was captured.

Q. Did you see Poundmaker soon after that? A. Yes.

Q. What was his conduct? A. He seemed to be glad of the idea that the war was over. He told me so, motioned to me.

Q. Do you recollect any occurrence, in the camp when you were there, about a pocket knife?—A. Yes.

Q. Tell the jury what that was, and what part Poundmaker took in it? A. Well, when we were taken to the camp the young braves started to search us, they wanted to see what we had, I suppose, and just as Poundmaker came up one of them was taking a pocket knife from one of the boys, and Poundmaker saw him do it, and he did not say anything at the time, but as soon as the Indian got away with the pocket knife he took his own pocket knife out of his pocket and gave it to the boy in exchange for the one the Indian had taken.

Cross-examined by Mr. Osler :

Q. Then I understand from what you saw, all parties were obeying the half-breeds who were in command? A. Yes.

Q. Was Poundmaker obeying their orders with the rest? A. Yes.

Q. Doing what they directed to be done? A. Yes.

Q. And then, when the councils were held he was one of the council? A. Well he was there, everybody was there that wanted to go.

Q. Well, how did you distinguish the council then, did all take counsel together? A. They came and got together and sat down when there was a council, and if there was not a council, they were standing up walking around.

Q. Then the councillors were sitting down; you did not take part in the council; for instance? A. Yes, I did. I sat down with the rest of them. I was in the centre of the council.

Q. Then, it was a consultation as to what was to be done, as to moving off or anything of that kind, you don't mean to say you took any part in advising what should be done? A. No, I didn't.

Q. You were merely there as a spectator? A. Yes, I was.

Q. Now, Poundmaker, as I understood you to say, used to speak, although not frequently? A. Yes, he spoke.

Q. And were there Indians of his band in the party that captured the teams? A. I could not say whether they belonged to his band or not.

Q. You don't know how that was? A. No.

Q. About how many men were there altogether in the camp, half-breeds and Indians? A. I should say there were about 300.

Q. Were there any Indian chiefs in command, or were they all under the half-breeds? A. They were all under the breeds.

Q. What was done with the goods? A. I don't know. Well, of course the goods that were taken from us were taken by the Indians and breeds.

Q. Use any of them in the camp afterwards? A. Yes, I think they were used in the camp.

By Mr. Robertson :

Q. In what particular did you see Poundmaker obeying the breeds? A. Just the same as all the rest of them; he would do whatever he was told.

Q. Did you ever see them tell him to do anything, and see him do it? A. Nothing particular. No.

Q. Did you ever see him take any active part in anything that was going on? A. No.

SOLOMON DESJARDINS, sworn :—

Examined by Mr. Robertson :

Q. Where do you live? A. In Prince Albert now.

Q. Where did you live in the beginning of March last? A. I was in Little Pine's reserve.

Q. What was your occupation there? A. I was working there, doing anything.

Q. In whose employment? A. Indian Department.

Q. You were employed in the Indian Department on Little Pine's reserve?
A. Yes.

Q. Do you know Poundmaker? A. Yes.

Q. What was the first you saw of him in connection with the trouble or about the time of the trouble? A. I seen him at Cut Knife Creek.

Q. That was the first, was it? A. Yes.

Q. Were you there, at Cut Knife Creek? A. Yes.

Q. How did you come to be there? A. I had been prisoner at Little Pine's reserve, so we all came down to the Cut Knife Creek.

Q. The Indians on your own reserve took you prisoner? A. Yes.

Q. And brought you down there? A. Yes.

Q. To Cut Knife Creek? A. Yes.

Q. What did you find when you got to Cut Knife Creek, when you were brought down that time? They were all there.

Q. Who? A. Poundmaker's camp, and the Stonys, and Sweet Grass, all three there together.

Q. All there together when you arrived? A. Yes.

Q. Had a soldiers' tent been pitched before you arrived? A. No, it was after.

Q. Who pitched that soldiers' tent? A. I am not sure. I thought it was the Stonys.

Q. Now, tell us what you saw at the fight at Cut Knife? A. I saw nothing at all, I think.

Q. Well, you saw something of it? What was the first you knew of the fight?

A. I was in my bed when the first shell came into the camp.

Q. Well, did you get up? A. I got up and put on my boots, and ran to within about three miles of the creek, with the rest of the half-breeds.

Q. Now did you see anything of Poundmaker? A. No.

Q. You saw nothing of him that day? A. No.

Q. Do you know anything about the letter being sent from Poundmaker, or from the camp, Poundmaker, Copinowaywin and three others to Riel? A. No.

Q. You don't know anything about that? A. No.

Q. Did you know that a message had been sent? A. That was after, in the camp, but I was not sure.

Q. Do you know Wawpass Trottier? A. No.

Q. By sight? A. No.

Q. Do you know Chicicum? A. I know Charles Trottier, who was in that camp.

Q. Was he one of the messengers from Riel? A. Yes, he said he was.

Q. And Chicicum, do you know him? A. Yes.

Q. You saw those men there, did you? A. Yes.

Q. And Jobin? A. Yes.

Q. When did you first see them in the camp? A. I would not say.

Q. About when? How long before the fight? A. Charles and Pierre Vandale, Joseph Arcand, Tropas Trottier and one Sioux, and Cayien, who was wounded after the fight.

Q. But I want to know about these other men before the fight? A. Yes, Trottier, Chicicum and Jobin.

Q. And Norbert Delorme was he there also before the fight? A. Yes.

Q. Now did you hear Delorme trying to persuade Poundmaker to go to Batoche?
A. Yes.

Mr. Robertson here submits that it is proper to ask what answer Poundmaker made to that.

Court.—I think you may put that.

Q. What answer did Poundmaker make to it? A. Poundmaker said he would send to Fort Pitt, to Big Bear's camp and he would wait for him awhile before he would go down to Riel.

Q. That is what he said? A. Yes.

Q. Did he say that he would go? A. Well, that is what he said, that he would wait for Big Bear for awhile.

Q. Did he say that he would go? A. No.

Q. Well, did he say that he would not go, what did he say as to going away? A. He said that time that he would wait for Big Bear awhile before he would go down, and then after that he said then he would not go—after the fight.

Q. Did you hear any others trying to persuade to induce him to go? A. Yes, all of them, all of the half-breeds from Duck Lake were after him to take him down.

Q. And what did he say to them? A. He said he would want to go back to Devil's Lake.

Q. What did he say about going to Batoche? A. He said he did not like to go down after the fight at Duck Lake.

Q. He wanted to go to Devil's Lake? A. Yes.

Q. Where is Devil's Lake? A. I don't know.

Q. Don't you know in what direction it is in? A. No.

Q. How long did you remain in the camp? A. I remained there all that time till the surrender.

Q. Who was in command of the camp? A. Well after Norbert Delorme came to the camp, I guess he was the boss in the camp.

Q. Now he came before Cut Knife, before the fight? A. Yes.

Q. Was Poundmaker able to control the Indians in that camp? A. No, I don't think it.

Q. Did he ever take any active part in what was being done? A. I can't say.

Q. You did not see any at all events? A. No.

Q. Well, were you constantly about the camp? Were you kept confined in any particular place, or were you free to walk about the camp? A. I walked about in any time.

Q. And did you walk about a good deal? A. Yes.

Q. And if Poundmaker had been taking an active part, would you have seen it?

A. I don't know, he was not often out of his tent.

Cross-examined by Mr. Osler :

Q. Then as soon as the first shot was fired you went off to a place of safety? A. Yes.

By Mr. Robertson :

Q. I want to ask you another question. Do you know an Indian by the name of Mustatamus? A. Yes.

Q. Does he resemble Poundmaker at all? A. No, not much, he is a very big man.

Q. He resembles him in that? A. Yes.

Q. He is a fine looking Indian, straight? A. Yes, a good looking Indian.

Q. Was he in the camp at the time of the fight at Cut Knife, do you know? A. Yes.

Q. Do you know whether he was taking any active part in the affairs of the camp? A. I seen him before sunset that same day, the day of the fight, and he was on his back, he had a bullet or something.

Q. He was wounded? A. Yes.

Cross examined by Mr. Osler :

Q. Several of those who wanted to fight went to the rear with you, didn't they? A. So I thought.

Q. All those who did not want to fight went off to a place of safety? As soon as the fight happened some of the half-breeds went, didn't they? A. Yes.

Q. Prisoner went? A. Yes, the prisoner was pretty nearly in that direction.

Q. Everybody was free to go, there was nobody hindering? A. Yes; they were all around us.

Q. But nobody hindered you from getting away? A. I had to go with the half-breeds.

Q. Then it was just those who were not going to fight who went to the rear? A. Yes.

Q. And those who were going to fight remained? A. That is the way I thought.

Q. Well, did Poundmaker go with you or did he stay in the camp? A. I could not say. I did not see him.

Q. You did not see him with those who retreated? A. No.

Q. When was it you heard Poundmaker say he would go to Big Bear or send to Big Bear and would wait for him awhile before he went to Batoche? A. I could not say the time.

Q. Was it before the Cut Knife fight, before the soldiers came? A. Yes, before the soldiers came.

Q. And how long before? A. Well, I am not sure, but I guess it is about five or six days before.

Q. Well, was it Poundmaker himself they wanted to go to Batoche, or his band. A. I understood it was all the band.

Q. Well, was it because Poundmaker refused to go that the band did not go? A. I don't know.

Q. But when they wanted the band to go they went to Poundmaker? A. I could not say.

Q. Well, it was Poundmaker they spoke to? A. No, they had a big meeting, and they spoke to each other there.

Q. And who answered? A. All the councillors and headmen got up and spoke about it.

Q. Poundmaker among the rest? A. Yes.

Q. And the conclusion come to was that they would wait for Big Bear? A. Yes.

Q. Before they went down? A. To Duck Lake.

Father LOUIS COCHIN sworn:—

Examined by Mr. Robertson;

(French interpreter sworn, Napoléon Blache.)

Q. What is your occupation? A. I am missionary to the Indians at Battleford, or the vicinity of Battleford.

Q. Where were you residing in the early part of March last? At the settlement of the half-breeds near Battleford, about 25 miles from Battleford.

Q. Is it the settlement known as Bremner's settlement? A. Yes.

Q. Did you see anything of Poundmaker there at any time towards the end of the month of March last? A. I seen Poundmaker; when Poundmaker came to me with the Indians it was not Poundmaker said it, but the Indians said they come to get you, or they come to bring you. Poundmaker himself said they come to bring you, to take you, they are coming.

Q. Not that these people have come now, are come now to take you, but they are coming? A. They are coming.

Q. To whom did he refer? A. When Poundmaker said they come to take you, he had a gang of Indians behind him, and he meant at the time that it was the Indians that came to take him, to fetch him. Poundmaker came with the Indians, about 200 Indians, and he sent two men of the band to advise the half-breeds that he was very sorry that the Indians were excited and he was not, and when he arrived, he told Mr. Bremner and half-breeds before me, they come to take you.

Q. Was that the first time you saw him, when there were 200 Indians with him? A. I saw him one time before, and he promised—he gave the Stonys to understand he would not trouble us at all, and we could remain to work in our place.

Q. You saw him once before? A. Yes.

Q. What was the first occasion that I asked you about, I want you to tell us about the first occasion, not about the 200? A. This is the first occasion that I saw Poundmaker.

Q. How many Indians were there with him on that first occasion? A. Twenty Indians the first time.

Q. Now what did he come for on that occasion? A. Poundmaker and the other 20 Indians went there to assure themselves, and what they were doing at the time, at that time at Bremner's settlement, and the half-breeds there met them and understood that they were quite indifferent to the fight, they did not want to fight, they wanted to have peace and cultivate their lands, and Poundmaker made that understood to their Indians and they went away again.

Q. But what did Poundmaker come there for? A. Poundmaker went over there with them to prevent them from doing any harm to the half-breeds at the time; he went there on account—to see himself what was going to be done and explain to the Indians. I suppose that those Indians were Assiniboines and were quite excited at the time; and Poundmaker went over there with them to see and to assure them that they were quiet at the time, and did not want to cause any row or anything like that.

Q. Well, the next time you saw him, was he there when there were 200 Indians? A. Yes.

Q. Who was in command of those Indians? A. Delorme.

Q. What part did Poundmaker take? A. Poundmaker, on arriving, simply said to Bremner's, they come to fetch you, and afterwards I returned to the tent and did not hear any more of the conversation, of the doings.

Q. Well, did you go over to the camp—the Indian camp after that? A. Next morning we went to the Indian camp; we started to go over to the Indian camps because Delorme told us that if we did not go there would be probably bloodshed over it, and Poundmaker promised him and to the half-breeds that he would protect them all the time.

Q. Then you did go over? A. And then we followed the Indians in the camp.

Q. When was that—what time of the month? A. It was on the 15th or 16th of April.

Q. And how long did you remain in the camp? A. I stopped from that time—15th and 16th of April till 18th in that camp, 17th or 18th.

Q. Were you a prisoner there during that time? A. I was taken as a prisoner like the others. I was not taken by force. I could go about in the camp anywhere I liked to go, but I could not go out.

Q. Where were you taken in the first place when you were taken over—to which camp? A. I was in Bremner's camp.

Q. The half-breed camp or the Indian camp? A. Half-breed camp.

Q. But after you had been there a time, you were allowed to wander about any place in either camp? A. I was let free to go out every now and then, but was sometimes threatened by the Indians to not go too far or be too free about it.

Q. Which Indians? A. The Stonys. I don't know all their names, but they were Stony Indians.

Q. It was Stonys that threatened you? A. Yes.

Q. Do you talk and understand Cree? A. I understand Cree well.

Q. And Stony? A. No.

Q. Who was in command of the Indian camp while you were there? A. I can say there were two commandants of the Indian camp. I heard Poundmaker commanding his own people, but I never heard him commanding anything wrong; it was always of good and he was obeyed by the good men.

Q. Who was the other commander? A. The other commander was Delorme, and the soldiers' camp.

Q. He commanded the soldiers' and the Stonys' camp? A. Yes.

Q. Had Poundmaker control of that Indian camp? Were you able to control it? A. I could not. I tried now and then to have control of the camp, but I did not succeed.

Q. What attempts did you make to get control of it? A. He told his men many times in fact that they were frightening him on account of them pillaging, and in fact murdering and so on the people, slaughtering the people, or something like that.

Q. They were frightening him? A. Frightening him by their past conduct, pillaging and murder and so on.

Q. Well, his trying to get control of the camp, on what occasions did he try to get control of it? A. Every time there was excitement he was trying to have control of the camp.

Q. Trying to do what? A. Each time they were threatening the prisoners or at other times when they were trying to go to Battleford, he was trying to take control of the camp then.

Q. Trying what to do? What did he want them to do? A. He was threatening the half-breed, and then for punishment, killing the beasts, cattle that they brought over, they stole or made their property, appropriated them.

Q. You said when there was excitement, and when the Indians were threatening the prisoners, and when the Indians were wanting to go to Battleford, Poundmaker would try to get control of the camp—now what did he try to get them to do? A. He was trying to calm them, and saying, pay attention or be careful in your conduct, and when he saw them at a certain place, he was sending them to another place or moving about. I saw that—the half-breed camp.

Q. Moving about? A. Yes.

Q. For what purpose? A. Coming to make a noise in the half-breed camp, and he would send them away; they were making a noise or row in the half-breed camp.

Q. Did the Indians, on any particular occasion that you remember, threaten to murder any of the half-breeds who had been taken from the settlement? A. I heard the Indians saying to the half-breeds of Bremner's settlement that if you go on giving suspicion against you there will be damage done. It appears some of the half-breeds, half-breeds, I suppose, that were brought up from there, wanted to desert, so the Indians told them if you want to keep deserting that way, at last something bad will happen between us, meaning they would fight them or kill them, and in those circumstances I have seen Poundmaker many times sending them aside, sending them away—Indians, sending them to one side, protecting the prisoners.

Q. Was your own life in danger at any time? A. From the beginning until the 2nd May I thought my life was in danger, and during that time I was threatened now and then, and once there was twenty Stony Indians that were surrounding and trying to strike me, but Poundmaker came to them and they scattered away, sent them off.

Q. What did Poundmaker say to them? A. I can't say, but I heard some words, I understood a few words and heard Poundmaker saying to them that—his meaning was that they had nothing to do there, in fact, and he, Poundmaker, threatened them.

Q. Well, was your life in danger at any time? A. Not after the fight.

Q. What else, if anything, did Poundmaker do to protect you from the Indians? A. He has held meetings and speeches, saying to leave the fathers alone, in fact, to leave them quiet. And he had so much indignation at Frog Lake massacre.

Q. Did you ever have a guard standing over you to protect you? A. Yes. Poundmaker went there to my tent several times to see that nothing had happened to me and others in the camp; used to go around my tent several times, many times, to see that nothing had happened to me.

Q. Was there a guard standing over you at any time? A. After the fight.

Q. What was the guard there for? A. Those were half-breeds that were sent by Riel, that I speak of now.

Q. Now, tell us all that you know, and all that you saw in the fight at Cut Knife Hill? A. I heard an Indian in the morning about 5 o'clock. He was shouting to the men, and I got up at the time and went out, and as I went out I saw a few Indians that were running on the creek side towards the creek, and I was trying myself to go and see what was going on at the time, and after walking about 100 yards I heard a few shots, and after those few shots I heard, they fired until 12 o'clock. They never stopped till 12 o'clock, and then I proceeded to a small hill, and on arriving there, I saw the soldiers going up too. There were a few Indians advancing towards

the soldiers at the time, running around by their left, and the fire was too strong and I left.

Q. Did you see Poundmaker that day? A. I saw on that day only what I said a few minutes ago. That is all I saw, as I returned immediately to the half-breed camp, as they were getting ready to go away.

Q. Did you see Poundmaker that day? A. No.

Q. Not at all? A. I saw him after the fight.

Q. Where was he? A. He was with all his camp. They were changing camp at the time.

Q. How long was that after the fight? A. About three or four hours after the fight.

Q. Was that the first you saw of Poundmaker that day? A. I think I saw him coming out of his tent before he went away from the half-breed camp. I am not sure it was him.

Q. Did you see any buckboards? A. I seen a good many buckboards on the half-breeds' side and Indians, but I did not see any buckboards with the half-breeds going towards—I don't remember seeing any going away with the other half-breeds.

Q. Did you see any buckboards on the field when the fight was going on? A. No.

Cross-examined by Mr. Casgrain:

Witness.—On one occasion the Indians wanted to go to Battleford to pillage it and Poundmaker prevented them from going. On other occasions when the Indians threatened the half-breeds Poundmaker prevented them from carrying their threats into execution. On other occasions when the Indians came to make a row in the half-breed camp Poundmaker came over and sent them away. On another occasion when the priest's life was in danger it was due to Poundmaker's influence over the Assiniboine Indians that his life was saved. Therefore Poundmaker's influence in the Indian camp was considerable. Poundmaker was a speaker of considerable weight amongst the Indians; he was listened to for certain things and sometimes he was not listened to. When the Cut Knife fight began those who did not want to join in the fight left the Indian camp and went into a hill about two or three miles from where the fight was going on. There was a good deal of confusion in the beginning, but some of the Indians came and tried to make those who did not want to fight go towards the Indian families and not towards the half-breed camp. Poundmaker did not follow them when they left the field. I don't know whether Poundmaker went towards the other—the Indian families. I and the half-breeds were prisoners in the Indian camp.

Q. The Indians were in a state of war? A. A great part of them, if not the greater part, were in a state of war. I did not see any buckboard on the field that day, but there might have been buckboards without my seeing them. Some time after the fight I went to Poundmaker and spoke to him about going to Colonel Otter with an offer to surrender, and Poundmaker then told me to go with an offer to surrender. The reason that I went to Poundmaker was because Poundmaker was chief of the camp. I thought he was the chief.

By Mr. Robertson:

Q. You have said that Poundmaker had a good deal of influence over the Stonys sometimes and sometimes not? A. Sometimes not.

Q. How was that influence he possessed exercised by him, for good or for bad? A. For good.

Q. Always? A. He had influence when the others were afraid there might be danger that he would not be listened to.

Defence closed. No evidence in reply.

ADDRESS OF COUNSEL FOR DEFENCE.

Mr. Robertson,—May it please your Honors, gentlemen of the jury: I propose to say to you very few words indeed upon this case. You have heard all the evidence,

and you can judge of it just as well without any words from me as you can if I were to talk to you for hours. You have heard, of course, the evidence of the witnesses for the Crown, and you have no doubt remarked this, that every one of those witnesses is a man prejudiced by his official position or by the circumstances through which he has passed, against the Indian. You have noticed Mr. Jefferson—you have noticed that he goes into that box saying himself that he has no clear recollection of what did take place, and you notice also that while he is admitting that he is giving only recollections very imperfect of what took place, every time he has anything to say it is colored against the prisoner. You must have been struck by that when he was telling you of what took place between him and Poundmaker, when he himself went to find Poundmaker because he thought he was in danger. He met Poundmaker, and he tried to convey to your minds, at first, the impression that Poundmaker had practically said to him, you might have been killed before I got back, and I would have been rather glad if you had because I would not have been to blame for it, but now that you are here I can make use of you and you can leave. That is the sort of impression he tried to convey to you at first, and when he came to be pressed a little, and was made to give the words, we find it was totally different. We find old Poundmaker rejoicing that he was alive, and referring to the fact that he had many times kissed his little child, and that he was glad that he was there and uninjured. There was one sample of the way in which Mr. Jefferson always tried to color the evidence that he was giving. Then we have him again about the letter. At last, when pressed on cross-examination, he is obliged to admit that Poundmaker may never have authorized him to put his name to that letter. He has to admit that at last. In the first place he states, in the broadest terms, that Poundmaker authorized him to put his name to that letter, and he lays great stress on the fact that he goes to Poundmaker's tent for the purpose of writing it. Now, what were the circumstances as he detailed them? He was in another tent. A messenger comes to him, not from Poundmaker. One of Red Pheasant's men comes to him and tells him that he is wanted. He goes on then, not Poundmaker says, but he says it is said by some one that he is wanted to write a letter. Then a letter is dictated by whom? He can't say by whom. He does not say that Poundmaker dictated it, but he thinks all that were present had a hand in it. Well, that is all very well. Perhaps they had a hand in it, but what hand? My explanation to you, gentlemen, of that is this, of what took place there, they were in Poundmaker's tent, because they had to go there and get him. It was the only way they could get him into it at all. The half-breeds were there. The half-breeds had come determined to bring him into sympathy with Riel, or, at all events, into some seeming connection with him all the other half-breeds of Battleford however unwilling, and all the Indians. They found there most ready confederates in the Stonys. They rise. They get them to join them, and then they bring them over to Poundmaker's camp, and they take the control of Poundmaker's men out of his own hands, of his camp out of his hands. They come there, the Stonys come, and the Stonys pitch the soldiers' tent. It is not Poundmaker's men that pitch the soldiers' tent, but the Stonys come into his camp and pitch the soldiers' tent, and declare themselves masters of it. And, gentlemen, does not the evidence of those men who were his prisoners in that camp during that time satisfy you that that was the true position, that Poundmaker's influence, such as it was, was always exercised in the interests of peace and humanity—always, but there was a stronger influence here, an influence that he could not countervail, the influence of those half-breeds with the Stonys at their back, and perhaps younger men amongst the Crees, who were only too glad to show that they were braves, and to go in for any fighting that might be going on? That, I take it, was the true position of the matter. Then, what was Poundmaker's position? He was there in his own camp. He could not get away from it. Three times he tried, and each time he was brought back. He could not get away from it. He was there. The state of things was such that Mr. Jefferson tells you himself, even Jefferson, who was not anxious to help Poundmaker, tells you that Poundmaker, whom he had been trying to make out so influential, might have

been in fear of his life at the very time that that letter was written. Jefferson was in fear of his life. Jefferson would never have written that letter—if he had dared to refuse, what would have been the result, and if he did not dare to refuse, are you to think much of this, that Poundmaker sat there while that letter was being concocted when they came to his tent for the purpose of doing it? Now, how did it happen that they came there? The half-breeds who were in control of that camp wanted to communicate with Riel. They wanted to give him confidence, and they wanted to rope these Indians in. The half-breeds arranged how it was to be done. They said: We want to make this appear that it comes from all the Indians. We will keep away, but we will send our own Indian, Chicicum, who was one of the leaders; we will send him. He will go and organize matters. We will instruct him beforehand what is to be said; and accordingly Chicicum goes. He gets up this meeting. He takes, not Poundmaker's Indians, but the Stonys, because you will remember that Jefferson tells us who those Indians were that were present there. The only man that was Poundmaker's man was Copinowwaywin—all the others were Stonys—and he comes from the other reserves that they had stirred up. They had got together to Poundmaker's tent, and they pretended to hold a council at which Poundmaker is present. Then they dictate the letter. They make Jefferson write it. Then, to be quite sure that it is according to the instructions the half-breeds have given them, they take it over to the half-breeds' tent, and the letter is carefully revised, and an alteration is made. That is how that letter was concocted. It was not the work of Poundmaker. It was the work of the half-breeds who had control of that camp, acting through the Stonys and the other Indians over whom they had acquired influence and through whom they were controlling Poundmaker. That, I say, is the explanation of that letter, and if you think that there is reasonable ground for believing that Poundmaker did not willingly write that letter or dictate it—if you think there is reasonable doubt that he did not willingly authorize his name to be placed to it—if you think even that he did perhaps say yes when he was asked if his name might be put to it; if you think that in saying that he was influenced by fear, that if he did not it would be worse for him, then he is entitled to your verdict of acquittal; because I am going to submit to you that there is no evidence upon which you can safely convict that man of the charge laid against him upon any of the other particulars; I think, as nearly as anything can be. As to the going to Battleford, what is the evidence as against Poundmaker? In looking at that, you must remember that an Indian chief, however influential, is not like the commander of an organized or disciplined force. He is nothing of that sort. The influence he has is just such an influence as his personal character and perhaps a knack of speaking may give him, and that only gives him such influence as enables him to lead men where their own inclinations jump. He cannot, with all his influence, so control the young men, braves of his tribe, as to prevent them, if they are bent upon mischief, from committing it. He has no court of justice; he has no means of punishment; he has nothing whatever to enforce his authority except such persuasive powers as he may have. That is all he has to depend upon. Now he goes to Battleford. We find him meeting Joseph McKay on Strike-him-on-the-back's reserve; we find him meeting Craig; we find him meeting Mr. Wm. McKay and Mr. Peter Ballantyne at Battleford, and none of those men—and they all know the Indians well—none of those men, in fact they all say that they saw nothing in the demeanor or conduct of Poundmaker himself, during that time, to indicate that he intended any harm whatever. Joseph McKay, who has known the Indians from his childhood, says there was nothing whatever unusual in their having their guns. An Indian travels with his gun as you or I travel with our coats. There was nothing unusual whatever in that, and there is nothing to show that Poundmaker organized a body to go with him. The contrary is the case. He hadn't asked an Indian to go with him, the only evidence there is on the subject shows; but he went to ask for tea and tobacco which they all desired and needed. He went also, anxious about what was taking place and to try and find out the truth about these troubles at Duck Lake. He went there, and his Indians a great many of them

followed very naturally and asked for something that he was going for, and what did they find when they got there? They found the village deserted, they found in all directions houses containing goods and all manner of things to arouse the cupidity of an Indian. Gentlemen, if a trap had been deliberately laid to draw these Indians into some act of wrong-doing, could a better trap have been laid than that? What was to be expected when a lot of young Indians came and entered the village and found it deserted? What else was to be expected than that some, at least, among them would try to help themselves to some of the good things about them. It is the very thing to be expected, and I venture to say if this people had not deserted their homes, if they had remained there, there would have been no plundering and no violence that night, but temptation was there and the young men yielded to it, but it does not follow at all that Poundmaker came there with any idea that anything of that kind was to be committed, nor does it follow at all that he approved of what was done. In fact the evidence is, on the contrary, that he tried to prevent it. You remember the evidence of one of the witnesses was that Poundmaker when he heard this going on went out and cried out to stop, not to do that, and that he afterwards got two of his older men to go out for the very purpose of preventing more harm being done. You have got evidence of Mr. William Lightfoot that he saw Poundmaker examining some of the things in the store and he says that he afterwards saw a bundle of things near where Poundmaker was. Well, gentlemen, how much reliance would you place upon Mr. William Lightfoot? If it is truthful, he contradicts Col. Herchmer, at all events he contradicts one of the Crown witnesses, Joe Alexander. Joe Alexander said he saw Poundmaker on the field at Cut Knife, and that he was near him, and with him, that was the expression he used, and this same William Lightfoot says he was not there and never was near Poundmaker during that day. Then, William Lightfoot is the young man who guided Riel's messengers from Red Pheasant's reservation over to the Stonys to help them rouse the Stonys. William Lightfoot is in that box to save himself. Gentlemen, that is what he is there for, and you know that an Indian of that class always tries to save himself by trying to bring charges against other Indians. You know that well, and I submit to you with great confidence that that man's evidence is not worth a tittle when he says that Poundmaker took goods that night. Poundmaker was too sensible of the trouble and was too anxious to prevent it, to do anything of that kind, he did not show in his conduct, so far as we have been able to get at it, and as you know I have been prevented by my learned friends who have the right to do it, I have been prevented from showing you what his conversation was with these men when he met them, which would have helped you also to decide upon what his motives were. The only fact we have is that all these men who met him and did talk with him felt that he intended no harm; we have got that fact, at all events, and it is not likely that Poundmaker in those circumstances and feeling friendly towards the whites, as his conduct shows he did throughout, would have done so foolish a thing, because he is not a fool, as to join in plundering a few goods on that night.

Another important fact in his favor is that the very next morning those Indians disappeared. Now, to whose influence was that due? There must have been some one there to induce those Indians to go away from Battleford and to go back to their reserve. Who was it? I think we may fairly assume that it was Poundmaker. That would be consistent with all the rest of his conduct, so far as we have been able to get at it; he does go back, and they camp at Cut Knife. There is another thing I want to say to you about that at Battleford—even supposing there had been any intention to loot or to take goods at Battleford, that is not treason-felony unless it is in the nature of levying war against the Queen, and that all depends upon the motive with which the wrong was done, the robbing. Now, the robbing of stores merely for the purpose of getting the goods, just because they wanted the stuff and they wanted to help themselves, that is not treason-felony, that is robbery or larceny or whatever it may be, but it is not treason-felony, and the people that are liable for it are the people that actually did it. There is no charge of that kind brought here, we have nothing to do with any charge of that kind here; the charge here is that

he levied war on that occasion against Her Majesty, and I think you must be satisfied, or you must say that the evidence for the Crown does not establish any such intention on that occasion. Then he comes back to Cat Knife, and they camp there, and then, as I was saying, the Stonys come in and the half-breeds in command of them, and they take complete control of his camp—from that time forward, he is helpless. We have the evidence of Father Cochin, and of the young teamster who was there, and everyone in that camp who saw what was going on, that the real control of that camp was in the hands of the half-breeds, and that Poundmaker's influence was practically nil as against them, that what little influence he had, he exercised for good. And, gentlemen, I think you will believe that we have to thank Poundmaker for this happy fact, that of all those prisoners that were taken in that camp, not one of them was killed. Father Cochin has told you of particular instances in which the Stonys—it was always the Stonys—in which the Stonys wanted to murder or injure the white prisoners. It was always Poundmaker that stepped in and threatened them and dispersed them; he had influence enough for that. My learned friends, I can see, make a point of that. They are going to say he had influence enough for that, and if he had influence enough for that, he might have controlled them altogether—it does not follow at all. Poundmaker in that no doubt had the support of the half-breeds, and no doubt the half-breed leaders who were leading the Indians, were just as unwilling as Poundmaker was that the white prisoners should be injured. That was where Poundmaker was strong, in that direction, but where the half-breed leaders were the other way, and where the half-breed leaders were in conflict with the wishes of Poundmaker and had the inclination of the Stonys with them, there Poundmaker was perfectly helpless. That is the view that I ask you to take of the whole situation. I ask you to remember that this poor man is an Indian, that although he is defended here, he is very imperfectly defended, that it is impossible for me, without the facilities that I should have if I had a white prisoner to defend, a man who could explain to me and tell me all about everything, and whose confidence I could gain—if I had a white man like that to defend, and if I had the means of communicating and getting information from those distant regions in which all this trouble occurred, it would be a very different thing; but you can see, you have seen yourselves, by the witnesses in that box, how difficult my task has been. You have seen how completely at sea I have been as to many of the occurrences that were in question, and you will see from that how impossible it is that Poundmaker or any other Indian should have such a defence as a white prisoner, who is able to explain himself, would have. I ask you to remember that, and I ask you, for that reason, to scrutinize all the more carefully the evidence that is brought against him by the Crown. Now, we can't go on through the whole of it. I have just pointed out a few little things like that as indices that might help to guide you in considering the case, the evidence. I have perfect confidence that you will give a fair consideration, that you will not allow it to press unduly on your minds upon the prisoner, and I ask you to give him the benefit of every reasonable doubt, and to give every doubt weight, for the very reason that he is so helpless.

ADDRESS OF THE CROWN COUNSEL.

Mr. Osler.—May it please your Honors, gentlemen of the jury,—The case before you is one of very considerable importance; one, perhaps, second only to the trial of the chief leader of the recent insurrection, Louis Riel. In that case the chief leader was on his trial for high treason, the crime of treason. Here the chief of probably the best known of all Indian tribes through Canada is on trial for the lesser offence of treason-felony, but upon evidence which would probably have justified the Crown in charging him with the higher crime of treason; and, if it were not for circumstances favorable to the prisoner, such as his not allowing those in his power or in the power of the camp to be killed, but for those circumstances which surrounded his actions personally it would have been the duty of the Crown, in all probability, to put him on trial for his life. But he is charged with that lesser offence because the

circumstances surrounding him were thought to be such that, even if he were convicted of the higher crime, it might be a sentence which the Crown would commute. Now, gentlemen, let me say, in the first place, that the Crown has no desire to find this man guilty unless the evidence clearly so points. The Government of the country and the people of this country would be delighted to know that, as the result of this enquiry, Poundmaker, a well known chief, had remained loyal to his Queen, loyal to the country, and stood there and did all he could to protect the settlers and the country when in danger; and no one would be better pleased than those in charge of the Government and the prosecution to know that, although accused, although suspected, the analyzed evidence showed that he had remained loyal and true; and if that is the result of the evidence you have heard, gentlemen, we ask you to give it its full weight and send him out of that dock a free man. But is it so? Does he come out with his intelligence, with his position, with his influence for good or evil? Does he come out with that clean record that we would all delight to see him have? Or is the evidence so strong against him that, no matter how intelligent he is, no matter how good he is in many of his instincts, still during all that time there was treason in his mind, in his heart, and there was fraud in his action, and he, an Indian, without cause of complaint against the Government, and without any grievance to redress, threw in his weight with those who pretended to have a grievance, and aided them in the calamity that they have brought upon the country? Now, it is for you to say which position he took. And it is not necessary for the Crown to make out that he was always a leader, or that he was responsible for the action of his young men. He is chargeable, as many men are, with the company that he kept; he is chargeable with the aid he gave, be it small or great. The question of degree of guilt, once you say he is guilty, is a question for the length of sentence, not for your verdict. If he is guilty, and there are many extenuating circumstances, if he did not lead, if he was, so to speak, guilty by reason of the circumstances surrounding him more than from his own individual action, then that is a matter for the court and the executive.

Now, gentlemen, he stands charged on various counts and overt acts technically pleaded and set forth, and if on any one of these overt acts you find the evidence conclusive against him he is guilty of the charge as laid—guilty of conspiring to levy war, to levy insurrection against the constituted authorities.

Now, the most cogent evidence of intent governing all his actions, his future actions we say, is the letter produced here by the Crown written in English by the witness Jefferson, and with his name attached to it and addressed to Louis Riel. Now, ask yourselves, was he a party to that letter? In other words, ask yourselves do you believe Jefferson? Have you reason to doubt the honesty of Jefferson's evidence? Consider how he comported himself in the box. Did he give his evidence with animus, without care, or did he give it with care, stating fairly that which was for as well as that which was against the prisoner? How did he strike you as a witness? Have you any reason to disbelieve his story? You are bound to give weight to the evidence before you, and there are methods of impeaching that evidence; first, by cross-examination; second, by putting some witnesses in the box to say that the man is not a credible witness, not to be believed on oath. Has, then, this witness been in any way impeached? If not, you are bound to give due weight to his evidence.

Now, is it possible, is it likely that he would put the name of Poundmaker to that letter with the other chiefs; or put it first, unless Poundmaker had authorized it? He says he could not and would not have put his name to it without his authority. Do you believe him when he says so? He says they were sitting around, these various chiefs, Poundmaker, Copinowwaywin, Massinass, Mettawaysis and Peewaychew. These five were there sitting around, dictating some of them one part, some another of this letter. As a result the production was satisfactory to the whole of them, and the writer was authorized to put the name to it, and that letter falls into the possession of the Crown. That letter is delivered to the half-breed messengers. It is discussed again, and a correction is made in it as to the number of messengers that are to be sent. Then if

you give weight to that letter, and say that Poundmaker is chargeable with it, consider its terms and say whether they are consistent in any way with the theory now set up for the defence. Let me read it to you—bear in mind it is on the 29th April. It is just three or four days before the battle of Cut Knife Hill, which takes place on 2nd May; just at that time, this man, the prisoner, is found in the council with these other chiefs. Just prior to Cut Knife Hill, this letter is discussed with the half-breeds, and its terms changed. Was he a loyal man acting there under the fear of his life, or was he acting in concert? Was he acting in aid of the rebellion then existing? Here is the letter: "If any event occurred since your messengers went away," referring to the fact that they recognized these men as Riel's messengers, "tell me the date when the Americans will reach the Canadian Pacific Railway." See how they knew all the plans, how they realized that they expected aid from the Americans as one of the great factors in the success of the rebellion, and remember that sentence in connection with the evidence, when the second letter came, and when the messengers told him the Americans were not going to help. Remember that sentence in this letter in connection with the fact that Poundmaker said when he heard the second time on the occasion of the second letter—a copy of which we have not got—but on the occasion of the second letter Poundmaker says: "If I had not believed that the Americans were coming to help, I would not have gone into the row." "We," as my learned friend, Mr. Robertson, properly says, we would not have gone into the row. That is an important thing to bear in mind in remembering that term in the letter. Evidently the first communication between Louis Riel and Poundmaker had been on the basis that if he would rise and help him, here are the prospects: The Americans are coming to take the Canadian Pacific Railway. I have arranged for that. We are here doing our work. Big Bear is there doing his work. You do your work. Our united they

(The three lines of the copy following this cannot be deciphered.)

go on "tell me all the news you have heard from all places where your work is in progress. Big Bear has finished his work, he has taken Fort Pitt." You see how the men who wrote this letter were in active communication with Big Bear, they recognized him as in the joint movement. "If you want me to come to you, let me know at once," he said, referring to Big Bear. "I sent for him at once, they will be four days on the road. Those who have gone to see him will sleep twice on the road. They took twenty prisoners, including the master at Fort Pitt. They killed eleven men, including the agent, two priests, six white men. We are camped on the creek just below Cut Knife Hill, waiting for Big Bear. The Blackfeet have killed sixty police at the Elbow, a half-breed who fought for the police having survived the fight, though wounded, brought this news. Here we have killed six white men; we have not taken the barracks yet, but that is the only entire building in Battleford." Bear this in mind when you consider the responsibility for the Battleford raid. "All the cattle and horses in the vicinity we have taken. We have lost one man, a Nez Percé killed, he being alone, and one wounded. Some soldiers have come from Swift Current, but I don't know their number. We have here guns and rifles of all sorts, but ammunition for them is short; if it be possible we want you to send us ammunition of various kinds; we are weak only for want of them. You sent word that you would come to Battleford when you had finished your work at Duck Lake, we wait still for you. We are unable to take the fort without help; we are impatient to reach you. It would give us encouragement to see you and make us work more heartily. Up to the present, everything has gone well with us, but we are constantly expecting the soldiers to visit us. We trust that God will be as kind to us in the future as he has been in the past. We, the undersigned, send greeting to you all." Then come five signatures of the five chief men, Poundmaker's coming at the head. And then there is a postscript: "When this reaches you send us news immediately as we are anxious to hear the news." And there is the further alteration, and it may be that the evidence does not bring home, if that is important, that alteration to the prisoner, "if you send us news, send as many men as possible," that is the

alteration made you will remember when the terms of that letter were discussed, when the half-breeds were present. As the letter was originally written, there was one messenger to be sent; as it was altered, it was "send as many men as possible."

Now, gentlemen, as I have said to you, the great governing question here is, is Poundmaker responsible for that letter? If you find him responsible for that letter, then your task is a very easy one, for you need consider very little of the other evidence. Now you heard just how Jefferson put it in examination and cross-examination. Can you come to any other conclusion?

Now, gentlemen, beyond that letter, there is evidence, as I submit, to convict. Upon that letter the case is, in my view, almost unanswerable. Beyond it, however, you have the evidence of the Battleford raid; you have the evidence that when the state of terror existing in the country had driven the settlers into the refuge of the fort—when the state of things existing there had compelled men to flee, leaving their houses and their goods abandoned, when that state of things exists, this man comes down to Battleford with his armed men, 100 strong. What was he there for? They help themselves to hay. Poundmaker himself is seen in the store turning over the goods. What was he there for if he was a loyal subject? Why did he refuse to meet the Indian agent half way when the Indian agent asked him to meet him? Was that the act of a loyal subject wanting to help the Government in trouble? Or was it the act of an Indian who, willing to let his braves do what they will, at the same time his extra intelligence told him you must keep yourself right by saying something and doing something which will show that your heart is not in the work. Now isn't his position just this? As events changed, as he thought the rebellion was strong, so he was strong; as he thought the rebellion was weak, so he was weak, always knowing his prominent position, always knowing it was very easy to give a direction which could never be heard. It was very easy to set works and do acts which would save him in case the Government ultimately succeeded and asked him to give an account of his chiefship. Isn't that the position of a man who goes to Battleford and who refuses to meet the Indian agent, and who starts up and gets goods and is up there at that hour in the morning, and is seen afterwards with goods alongside of him? I admit with my learned friend, Mr. Robertson, that that in itself is not treason-felony, as an isolated act, but it is treason-felony if it is a part of the common object, if it is a part of the war and insurrection which they had entered into. As an isolated act, it was mere looting or stealing, punishable as such, but if it is referable to the insurrection, to the rising in arms, to the conspiracy to levy war against the Government, then it is an overt act of treason-felony for which you may find the prisoner responsible.

Well, then, gentlemen, we come to the evidence of the battle at Cut Knife Hill. Do you believe that the prisoner was there aiding and abetting, no matter whether he was in command or not? Do you believe, in other words, Col. Herchmer, when he says that he saw him there engaged apparently in directing the movements? Do you believe Josie Alexander, who saw him there with Grey Eyes; and he says also with Lightfoot? Do you believe that he was recognized in the fight? Grey Eyes was by him, according to one witness, and Grey Eyes is the Indian here who was fighting actively, had his gun and was shot, and is here yet with his wound apparently unhealed. That was the man, Grey Eyes, who was seen in his company. Well, gentlemen, upon that occasion, upon the occasion of that fight, there seems to have been a camp for non-combatant people who did not want to fight. The half-breeds, Father Cochin, and others, retreated when the battle happened, but in that retreat Poundmaker did not appear. They were divided into two camps—the camp of those who desired to go out of the reach of the bullets, who desired not to take any part in the contest, and those left. Where was Poundmaker on that occasion? What was he doing? Was he taking an opportunity as a loyal subject to go out and surrender himself with a flag of truce, and say, now, at all events, is my chance to escape and make myself right with the Government? Or was he hauling down the white flag and actively engaged in directing the movements of the troops? Which conclusion do you come to on the evidence? If he was there fighting, he is responsible, respon-

sible for the lives that were taken and the wounds that were given upon that occasion. The evidence as to what took place on that occasion seems to me to be all one way, and there is the positive and uncontradicted identification of the prisoner on that occasion.

Now, my learned friend says that with reference to the raid upon the teams, that that was a matter for which he is not responsible. Well, now, I will admit that prior to that occasion Poundmaker endeavored to get away, but why was that? He saw by that time that it was a losing cause. When he wanted to get away, and they would not let him, what was it that he said. He said that he was afraid that Riel was in a bad way—he was in a bad fix, and it was only because he, with his superior intelligence, was satisfied that Riel was in a bad way, that he wanted to leave the camp. Now, that does not help him if he was then trying to turn back for the first time. You see after that, gentlemen, he takes part in the council as to what is to be done. He acts, no doubt, when the teamsters are brought in, with that humanity which we would expect from his superior intelligence, and he is entitled to and he does get the benefit of that. If he had not shown that superior humanity he would, no doubt, in all probability, be on trial for his life. If that was part of the movements in the general insurrection, he is liable for that as well as for the other acts, but the Crown does not need to press that, to bring home to him anything which you think he ought to be dissolved from. If he is found guilty of any one of these acts, it is just as sufficient, and just as strong, as if he was found guilty on a dozen overt acts.

Now, gentlemen, I shall follow the example of my learned friend, and I shall give your intelligence credit for following the evidence and being able to give full weight to it, without my recounting it to you. What you have to give your verdict on is not what I say to you, but what the witnesses have said to you. It is only my duty, on the part of the Crown, to point out some of the matters upon which the Crown relies, and adopt those matters to the written charge preferred here. On the general defence that he was helpless in the hands of his young men, it seems to me that Father Cochin's evidence shows that he still had a great deal of influence left; he it was who was able to control where control was wanted; he it was who dispersed bands of Indians when quarrelling with the half-breeds; he it was who goes where 20 surrounded Father Cochin and his life was in danger, he goes there and uses his influence and quiets them; wherever his influence is wanted and wherever it is exercised it is felt. Now, do you believe that he was helpless in the hands of the young braves, or if he had chosen to say break that tent up, he had not all the influence necessary to do it. If he hadn't that influence, if he was no longer chief, there still was a duty upon him as a loyal Indian. No man can excuse his treason to the Crown unless his treasonable act is produced by fear of death; fear only of personal death absolves a man from a treasonable offence, and while perhaps it may be unfair to measure the weight of evidence against an Indian in the same way that the Crown have all along measured it against white subjects, and perhaps it would be fairer for you to say if that man was not in control of the camp, had he under the circumstances a duty to perform to the Crown? As a treaty Indian, as a man of intelligence, as a man who had been in personal communication with many of the high officers of Government, should he not have heard of the trouble likely to rise? Should he not have met the Indian agent and told him there is a soldiers' tent I cannot control? Should he not have done something to show that while he was in that camp he was not of it; that while he was surrounded by disloyal men, dangerous men, he was remaining true to his allegiance? That is what I would expect if he had remained an honest chief. Is not his conduct all through well-indicated by the writing that we have produced on the part of the Crown?

Now, gentlemen, weigh well this evidence, and if there is a reasonable doubt, give it to the prisoner. The Crown here have endeavored to give him a fair trial; counsel has been assigned to him to work up the evidence, to present the case fairly to you from his point of view; every witness that he has desired to speak in his behalf has been summoned at the expense of the Crown, and you must not understand

me in any remarks I make to be seeking in any way to influence you beyond what you ought honestly to be influenced by, namely, the evidence that you have heard in the box.

JUDGE'S CHARGE.

Mr. Justice Richardson.—Gentlemen of the jury. In what remarks I may have to make to you I shall be as brief as possible. What we have heard since yesterday has been I think, so fresh, and must be so fresh in your minds that you must recollect it. However, if during the few minutes that will elapse I am told that you do not, I will take steps, such steps as I think proper to refresh your memory.

The charge against this prisoner is upon an Act of Parliament, passed in the year 1867, just after what was known as the Fenian raids, and the clause of the Act upon which this charge is framed reads this way: "Whosoever, after the passing of this Act within Canada or without, compasses, imagines, invents, devises or intends to deprive or depose our Most Gracious Lady the Queen, her heirs or successors, from the style, honor and royal name of the Imperial Crown of the United Kingdom or of any other of Her Majesty's dominions or countries, or to levy war against Her Majesty, her heirs or successors within any part of the United Kingdom or of Canada, in order by force or constraint to compel her to change her measures and counsels, or in order to put any force or constraint upon her, or in order to intimidate or overawe both Houses of Parliament, or either Houses of Parliament of the United Kingdom or of Canada, or stir any foreigner or stranger to invade the United Kingdom or Canada or any other of Her Majesty's dominions (reading the clause of the statute in full) and such compassings, imaginations, inventions, devices and intentions, or any of them, shall express, utter or declare by publishing in writing, printing or writing or speaking, or by any overt act or deed, is guilty of felony."

Under that law, you are empanelled as a jury to say whether upon the charge which has been brought against this prisoner he is culpable or not. Now, to cut this short, there are a great many words in the charge. We may divide it into four parts. 1st. The Crown who brings him before us for trial say this man has violated that law. Now, the law says you must, when you make a charge, you must say how he has violated the law. Now, they say this, that he violated the law, first, by pillaging, by assisting and being a party to the pillaging at Battleford. 2nd. They say that that letter which you have read, heard read, of the 29th April, and which lies before me, that that is what is called an overt act. 3rd. They say his presence at the battle of Cut Knife, and what he did at the battle of Cut Knife, is another one. And 4th, they say that his presence, and what he did in the capturing the Government supplies, the part he took in that or in the disposition of them, is another one.

Now, suppose you were satisfied, that you came to the conclusion after considering this, as I will tell you in a few minutes, you must consider it—suppose you come to the conclusion that he is not answerable on all the—e, but on one of them, say for instance, he is answerable in connection with the letter, or he is not answerable in connection with the letter, or Cut Knife, or the capturing, but he is mixed up in connection with the pillaging at Battleford, that alone brings him under this law which I have read to you, and brings him amenable to it, under the words of this charge. Now, my duty might end there. I might tell you that I have read to you the law, that I have read to you the charge, and I might tell you at once to apply the evidence which you have heard, and which we have heard in court since yesterday morning, to the law, and say upon that whether he is guilty or not guilty. Going further, however, that if a reasonable doubt, not a simple doubt, which I might raise,—did he do this? and did he do that? but a reasonable doubt is shown to exist; if you find that you could not conclusively, that upon either the whole or upon one or more of these charges or overt acts, the evidence is not clear that a reasonable doubt exists, then my duty would be to tell you that you should not convict.

Then in regard to the man himself, he is an Indian—it is true and unquestionable, it does not seem to be disputed at all—he is a treaty Indian. The law, as we have it here, makes no distinction between Indians and white men. They are all amenable to the law—they are all assumed by law to know what the law is, so that while I should tell you and advise you carefully to consider very carefully and closely scrutinize what has passed, what you have heard from the witnesses in their statements; while I should ask you to scrutinize carefully, bear in mind also that there is no distinction between the red man and the white man. There is the law which applies to everyone who is within the bounds of Canada, and anyone within her boundaries who breaks it, whether he is a treaty Indian or Chinese, or no matter what he is, he is amenable to that law, and if he breaks it, and a jury says he has broken it upon formal and legal evidence which may be brought before them, then all that they have to do is to say that he is guilty; the law of the land does the rest.

Now, as I told you, there are four overt acts charged. This charge is composed of four overt acts. In the first place he is charged with being a party to the pillaging at Battleford. Well, the witnesses who speak of the pillaging at Battleford are Ballantyne and McKay—or rather first I should tell you there is the evidence as to the insurrection in the country and which existed prior to the pillaging at Battleford taking place on the 30th April. To this, Harold Ross, Charles Ross and Wm. Tomkins testify, and Mr. Ballantyne. Now, Ballantyne and McKay, with Lightfoot, described what was done, and have told us what they knew about the pillaging at Battleford. Ballantyne has told us of the proposition made by himself that this man, the prisoner, should go across to the Indian agent, that a council meeting was held and the agent was on the other side of the river. The excitement was great, and the agent was on the other side of the river, and he was wanted to go across to him. What is the answer to that by the prisoner? Is it the case of a man who wants material from the agent? If I want articles from a merchant's shop, do I say that the merchant must bring them to me, or do I go into his shop and ask him if he has got such and such things? If I want something to eat, do I tell the public to bring me something to eat, or do I go where I get food, where I can ask for food? Which is the more natural way? That is one way to look at it.

Mr. Robertson.—Pardon me a moment your Honor, you will recollect the agent swore his store was on the side of the river on which the Indians were.

Mr. Justice Richardson.—I do, and I draw attention to that, and the agent was on the other side of the river. The agent had control of that, and I am asking them to consider whose duty it would be—would it be the duty of the agent to come over to this one or of him to go to the agent?

Mr. Robertson.—The store at which the goods were to be got was where the Indians were.

Mr. Justice Richardson.—The stores belonging to private people and the Government were on the south side of the river, the witness told you, and the agent was on the other side.

Mr. Robertson.—Exactly.

Mr. Justice Richardson.—I am trying, Mr. Robertson, to avoid using my own personal knowledge of Battleford if I possibly can, and in this I know that he was right and that I understand it. Dropping that for the moment, there is the evidence of Lightfoot. And you recollect what he says. You also recollect the evidence of the other witnesses called for the defence, what Grey Eyes says in connection with that same subject.

Now, then, we come to the second, in point of dates. We are told that this letter, which bears date the 8th April, and is post dated St. Antoine—we are told by a witness, Jefferson, that that came into the camp. Well, you have heard that read and instead of reading it myself, I shall charge you, or at least I shall place in your control these two letters for yourselves to read when you retire.

The next in point of date is 29th April, this letter which the counsel for the Crown read to you a few minutes ago. The evidence connecting this man with that is solely and wholly Mr. Jefferson's.

Now, the next occurrence in point of time is the battle of Cut Knife. You must recollect that this letter is dated 29th April and the Cut Knife battle or fight occurred on the 2nd May. Now, we have been speaking of that fight, Colonel Herchmer as the first witness; and then we have Alexander as the next witness, and then we must not forget Grey Eyes, and we have also the evidence which we have heard to-day, particularly Father Cochin's and we have Solomon Desjardins.

Now, the witnesses who were examined yesterday, if you will recollect, described what they saw. Colonel Herchmer said he saw this man; Josie Alexander saw him; the witnesses this morning who say that he was there—Father Cochin, he said he saw him get out of his camp in the morning and he was not with the nonfighters of that camp.

Leaving that branch of it, we then come to the fourth portion of the charge, the fourth overt act which is charged against him, and that is, that the Crown say that you, Poundmaker, were amenable to the law for what you did, for your connection with the seizure of the freighters in charge of the Government stores. Now, on that portion of it you have the evidence of the freighters themselves, of the two freighters themselves, who tell you who captured them and who tell—if they are to be relied upon—that he was in that camp, and describe to you his actions.

Now, gentlemen, I will tell you what the law is—I have told you what the law is. I have told you what the charge is against this man. I have told you what the four overt acts are that are charged against this man and I have led you as briefly as I can possibly, to the different classes of evidence. You know the witnesses who spoke, first of the one, then of the second and then of the third and fourth of these overt acts.

Upon you the duty is, and it is by no means a light duty, to determine what reliance you will give that evidence, place upon it. Do you believe—to begin with, Jefferson; do you think he is an honest man? Mind you, he has not been contradicted. He has not been contradicted by any witness in the facts that he has sworn to, nor has any witness been brought before us, nor have we heard that he is unreliable, that he is not to be believed as a witness. You must bear that in mind. Do you believe him? If you do believe him then he says he would not, to use the strongest expression, have put his name to that letter if he hadn't been authorized by him.

Then, with regard to the pillaging at Battleford, you should ask yourselves what was this man doing? A loyal man professing loyalty and leading a band of Indians? True, Indians generally carry guns with them. I daresay no one could gainsay that as a fact, that they generally carry guns with them, but if the evidence is to be relied on here, here is a band of Indians, armed men, and here is a man, who above all others, is bound by every instinct that he possesses to be loyal to the Crown. He is getting his living, he is getting his bread at the hands of the Crown, and what is the evidence against this man? Well, as to what he actually did there you have to rely for that evidence upon what is stated by Lightfoot, Ballantyne and McKay.

Well, passing from that to Cut Knife, what reliance can be placed upon Colonel Herchmer; did he tell the truth? If he told the truth that man was at Cut Knife. If Colonel Herchmer did not tell the truth, what about Josie Alexander? Did he tell a lie? Josie said he pointed him out to Colonel Herchmer. I think there is some diversity of opinion as to the distance, but the fact remains, he pointed him out to Colonel Herchmer and the colonel put on his glasses and identified him there.

Mr. Robertson.—On that occasion Colonel Herchmer said he saw him with the naked eye.

Mr. Justice Richardson.—First he saw him with the naked eye, and then afterwards with his glasses, he proved to his own satisfaction that he was there.

Mr. Robertson.—That was in another place.

Mr. Justice Richardson.—It was going up the hill, because the gun was turned upon him. Well then, with regard to the 4th, there does not appear to be any question as to what he did, as to what this prisoner did, or where he was after the taking of these stores, these Government stores; he was in the Indian camp, and his own witness, Father Cochin, says, if he is to be believed—and I think we must place the greatest amount of reliance upon the priest—that this very man whom you are

asked to absolve from liability for these acts that have been spoken of, Father Cochino says it was this very man who arranged for the final surrender of these parties. Well, now, there are instances where a man may be mixed up in a serious criminal offence, such as treason, and may not be answerable for it; but there is only one instance in the law, and it is this: the loss, the danger, the apprehension of losing, having property wasted or destroyed won't do; suffering other mischief or endangering the person would not do, that is not sufficient; nothing less than apprehension of such personal injury as will deprive of life is the only justification for a traitorous act.

Now, the evidence is for you to consider. It does not seem to me that that class of evidence has been offered in any way, and the question which it would seem proper to me to put to you to consider would be this: Does this evidence which you have heard since yesterday morning, scanned and scrutinized as best you can—and I ask you to give it the best consideration—does that bring home so conclusively to your minds, one and all, that this prisoner was mixed up in the acts or any one of them charged against him; if they do, then you should not hesitate to perform what I think is your duty, find a verdict of “guilty.” If, on the other hand, you do not believe, or such a doubt is placed upon it that you cannot bring yourselves conclusively to the absolute conclusion that he was mixed up in it, then you will find a verdict of “not guilty.”

Jury retire, and return after short time.

Mr. Watson, clerk of the court.—Gentlemen, are you agreed upon your verdict? How say you, is the prisoner “guilty” or “not guilty?”

Jury answer “guilty.”

Clerk.—Gentlemen, hearken to your verdict as the court records it. You find the prisoner “guilty,” so say you all.

Mr. Osler.—I move the sentence of the court upon the prisoner for the felony of which he has been found “guilty.”

Mr. Justice Richardson.—Poundmaker, have you anything to say why sentence should not be passed upon you? I am ready to hear anything you have to say now.

Poundmaker (interpreted).—I only want to speak once. Everything that is bad that has been laid against me this summer, there is nothing of it true. This summer what I have worked at is the Queen, the country that belongs to the Queen that has been surveyed; that I have been working at this summer. This summer, when my relations, my brother countrymen and white people, when they met each other, and until such time as they fled, then when I saw all this going on, I took all their arms from them and went and gave along with these. I did everything to stop bloodshed. If I had not done so, there would have been plenty of blood spilled this summer, but now as I have done that much good, whatever sentence you may pass on me, why of course, pass it. Do with me whatever the sentence may be. I said I was only going to say a little. So I have said all that I had to say, only I am glad that I stopped where there would have been a great deal of blood spilled, and now that I have done so, I am glad for that, and I will have to suffer for their sakes, that I have saved the lives of so many. So I shake hands, gentlemen, with the whole of you.

Mr. Justice Richardson.—Poundmaker, you have been convicted of a very serious offence, and during the conduct of your case you have been defended by able counsel, who did everything in your interest that could, I think, be done. The evidence was so strong against you that I cannot see how the jury could have brought in any other verdict than they did. The evidence was so strong against you that had the higher charge of treason been laid a verdict pronouncing guilt upon you would have been sustained, and in that event you would have to leave this court room to-day as Louis Riel left it, and he left it under sentence of death. To-day, fortunately, I am not called upon to pronounce sentence of death upon you, and the question which is to be determined now is what that sentence should be. If your heart had been loyal, had been true and good to the Queen, you would have gone across to the agent when Ballantyne told you you ought to, and asked you to go, you would have shown the authorities there who were doing the wrong and assisted in punishing them, and with

your influence, wielded as it ought to have been, there possibly might have been, or probably would have been no Cut Knife fight. Before that letter was written of April you knew of the soldiers arriving at Battleford, and another opportunity was afforded you of doing what was right, but we find you going on in a villainous career until after Riel had been broken up. That you were kind to the white men who fell into your hands is quite clear. That you were kind to the priests and took care of them seems also unquestioned, and probably the priests and these young white men, the teamsters, owe their lives to your personal influence.

To this I may add my personal knowledge of you for a number of years, and I do not forget the record I have of you, which was not a bad one. Instead of imposing a very heavy sentence upon you, that is, placing you where you would end your days in the penitentiary, we have considered what your actions have proved towards those men—the teamsters and the priests—and we have also considered your action in bringing about the surrender; but with all that it is impossible to pass over your wrong act, and punishment must be inflicted not only for the purpose of making you feel for the wrong you have done and the injury you have been a party to committing, but to prevent others from repeating the thing. The measure of that punishment I have to fix, and with what I do no power can increase it, but the Queen may, if she chooses, at any time hereafter reduce it.

The sentence which the court pronounces upon you, Poundmaker, for the offence of which you have been convicted, is that you be imprisoned in the penitentiary at Manitoba for three years.

Prisoner.—I would rather prefer to be hung at once than to be in that place.

QUEEN vs. ALEXIS LABOMBARDE AND PHILIP GARNOT.

Tried before His Honor Justice Richardson.

REGINA, 12th August, 1885.

Mr. G. W. Burbidge, Q. C., for Crown. Clarke & MacIse for prisoners.

The Clerk read the indictment as follows:—

CANADA:
North-West Territories. }

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario, in the Dominion of Canada, chief of police, taken the 5th day of August, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:

That Philip Garnot and Alexander Labombarde, not regarding the duty of their allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does, and of right ought to, bear towards our said Lady the Queen, on the twenty-sixth day of March, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that day, together with divers other evil-disposed persons to the said Alexander David Stewart unknown, feloniously and wickedly did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within Canada, in order, by force and constraint, to compel her to change her measures and counsels; and the said felonious compassing, imagination, invention, device and intention, then feloniously and wickedly did express, utter and declare, by divers overt acts and deeds, hereinafter mentioned, that is to say: In order to fulfil, perfect and bring to effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said persons above charged, and each of them, afterwards, to wit: on the twenty-sixth day of March, in the year aforesaid, and on divers other days and times, as well before as after that day, and at or near the locality called Batoche, in the North-West Territories of Canada aforesaid, feloniously and wickedly did conspire, consult, con-

federate, assemble and meet together, with divers other evil-disposed persons to the said Alexander David Stewart unknown, to raise, levy and make insurrection and rebellion against our said Lady the Queen, within the realm, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

A. D. STEWART.

Sworn before me the day and year
first above mentioned, at the town
of Regina, in the North-West Ter-
ritories of Canada.

HUGH RICHARDSON,

A Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice, that you have the option of being tried before a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way, without the intervention of a jury.

Mr. Justice Richardson.—Philip Garnot, which do you elect?

Philip Garnot.—Without the intervention of a jury.

Mr. Justice Richardson.—Alexis Labombarde, which do you elect?

Alexis Labombarde.—Without a jury.

Mr. Justice Richardson.—Philip Garnot, having heard the charge read, and having elected to be tried in a summary manner, which do you say, "guilty," or "not guilty."

Philip Garnot.—I plead "guilty."

Mr. Justice Richardson.—Alexis Labombarde, having heard the charge read and having elected to be tried by me in a summary way, what say you; are you "guilty" or "not guilty" of the charge preferred.

Alexis Labombarde.—Guilty.

Mr. Burbidge.—May it please your Honor, it is not the intention of the Crown to move for sentence at present, but to ask to have the prisoners remanded to give the counsel for the defence an opportunity to place anything they see fit before the court with a view to the mitigation of the sentence. I need not repeat here what was said yesterday, in respect of the reasons which induced the counsel for the Crown to accept the plea of guilty of the lesser offence; the reasons in this case, are the same as those stated yesterday.

Mr. Clarke.—Will your Honor direct that the witnesses be detained long enough to enable us to prepare the necessary affidavits, which cannot be done without their presence, I do not require them for any length of time.

Mr. Burbidge.—I will ask the Crown witnesses to remain if my learned friend will give me the names of those he requires, and the time they are detained will be allowed in their witness fees.

Mr. Justice Richardson.—I will order the prisoners to be remanded to custody for sentence at a future date.

THE QUEEN vs. ABRAHAM MONTOUR AND ANDRÉ NAULT

CANADA:
North-West Territories. }

The information and complaint of Frederick Kelloch Gibson, of the town of Regina, in the North-West Territories of Canada, deputy sheriff, taken the fourteenth day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the North-West Territories, who saith:—

1. That Abraham Montour and André Nault, not regarding the duty of their allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear

towards our said Lady the Queen, on the second day of April, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days and times, as well before as after that date, together with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within Canada; in order by force and constraint to compel Her Majesty to change her measures and counsels; and the said felonious compassing, imagination, invention, device and intention, then feloniously and wickedly did express, utter, and declare by divers overt acts and deeds hereinafter mentioned, that is to say:

In order to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Abraham Montour and André Nault, and each of them, afterwards, to wit, on the second day of April, and times as well before as after that day, at and near the locality called Frog Lake, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further, to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Abraham Montour and André Nault, afterwards, to wit, on the seventeenth day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Fort Pitt, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with other evil disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Abraham Montour and André Nault, and each of them, afterwards, to wit, on the twenty-first day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Frog Lake, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, to make, raise and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Abraham Montour and André Nault, afterwards, to wit, on the twenty-eighth day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Frenchman's Butte, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, to make, raise and levy insurrection and rebellion against our said Lady the Queen, within this realm, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

FRED. K. GIBSON.

Sworn before me the day and year first above
mentioned, at the Town of Regina, in the
North-West Territories of Canada.

HUGH RICHARDSON,

Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace with the intervention of a jury of six, or before

a stipendiary magistrate in a summary way without the intervention of a jury. Which do you elect?

After various adjournments on account of the absence of material witnesses, the case comes on for trial on the 5th October, 1885, when the court after hearing counsel and affidavits read by them it is pretty fairly shown that the witness is unavoidably absent, and there is ground for further postponement (such postponement having been asked by counsel for prisoners); but connected with the postponing I will not keep the Crown witnesses if the prisoners are transferred to Battleford. I think it but right that it should be transferred, and the order is that the trial be put off in consequence of the unavoidable absence and impossibility to procure a material witness.

The order to the sheriff will be that the prisoners be produced for trial on this charge at Battleford on a day to be fixed.

(Copy of telegram to W. V. MacLise, Prince Albert, N. W. T.)

Minister directs that *nolle prosequi* be entered in cases of Nault and M^ontour.

GEO. W. BURBIDGE,

Deputy Minister of Justice.

THE QUEEN vs. WILLIAM HENRY JACKSON.

REGINA, 24th July, 1885.

Before their Honors Justices Richardson and LeJeune. Mr. Osler, Q.C., and Mr. Burbidge, Q.C., for the Crown. Mr. McArthur, Q.C., for the prisoner.

His Honor Mr. Justice Richardson.—What is your name? William Henry Jackson, is that your name?

Prisoner.—I decline to answer any questions.

Mr. McArthur, Q.C.—I appear for the prisoner.

His Honor Justice Richardson.—You are charged upon the information and complaint of Alexander David Stewart, of the city of Hamilton, in the county of Wentworth, in the Dominion of Canada, taken the twenty-fourth day of July, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories, who saith:

That William Henry Jackson, not regarding the duty of his allegiance to our Lady the Queen, on the 26th day of March, in the year of our Lord 1885, at Batoche, in the North-West Territories, together with divers other persons unknown, feloniously and wickedly did compass, imagine and intend to deprive and depose our said Lady the Queen from the style, honor and royal name of the Imperial Crown of this realm, and the said felonious compassing and invention then feloniously and wickedly did express and declare by feloniously and wickedly on the said twenty-sixth day of March, and on divers other days and times as well before as after, conspiring, confederating and assembling and meeting together with divers other evil disposed persons unknown, to raise, levy and make insurrection and rebellion against our said Lady the Queen, at Batoche aforesaid, within the realm, against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

Will he answer?

Prisoner.—As far as responsibility of mine about what you call rebellion, I have always declared myself perfectly responsible, that is to say, as Riel's secretary, and I wish to share his fate whatever that may be.

Mr. McArthur.—I propose to answer, "not guilty," on the ground of insanity.

His Honor Mr. Justice Richardson.—Do you accept that plea.

Mr. Osler.—There are certain formalities to be gone on with. The jury has to be called.

His Honor Mr. Justice Richardson.—Mr. Clerk, please call the jury.

The following jurors were empannelled and sworn:—Thomas McNichol, John S. Donahue, D. A. McDonald, George S. Wallis, Charles H. Black, William H. Hamilton.

Mr. Osler.—Please your Honor, the prisoner stands charged with the crime of treason-felony, which is a statutory crime of the nature of treason, a crime in which the formalities of trial are less and the penalty is less. The prisoner is charged with having participated in the recent rebellion, with having acted in the capacity of private secretary to Louis Riel, the leader of the rebellion. He is charged here now formally for this crime, but it is understood that the counsel for the prisoner, Mr. McArthur, will be able to give you satisfactory evidence of the insanity of the prisoner, and that he is not really responsible and was not responsible for the acts committed by him.

The Crown do not propose to contest that contention on the part of the prisoner's counsel. The evidence, in fact, comes from the medical men who have examined the prisoner on the part of the Crown, and evidence that has come to the knowledge of counsel for the Crown during the course of preparation for other trials is conclusive that at the time he committed the acts he was not responsible for them. We propose to give some formal evidence, and the doctors will be called by the defence to satisfy as to the insanity of the prisoner, and if you are so satisfied, your verdict should be "not guilty," on the ground of insanity. That will subject the prisoner to confinement until he is released by the Lieutenant Governor, which release will probably take place upon a cure being effected.

THOMAS E. JACKSON SWORN :—

Examined by Mr. Osler :

Q. You are a brother of the prisoner? A. I am.

Q. And you, I believe, know of the rebellion or trouble recently over, the rebellion in the North-West near Batoche? A. Yes.

Q. Were you present? A. Yes.

Q. Do you know who the chief person or leader was in that rebellion? A. I do.

Q. Who was that? A. Louis Riel.

Q. Do you know what position your brother occupied in regard to Louis Riel?

A. He was a prisoner at the time I knew of him.

Q. Prior to that? A. No position in regard to Riel.

Q. Did you know of his being his private secretary? A. No, I am quite certain he was not.

Q. Do you know his writing? A. Yes.

Q. Is that his writing? A. Yes, that is his writing.

(Document referred to filed.)

Q. Did you know of his being with Riel immediately prior to the rebellion breaking out? A. He was prisoner with Riel from shortly after the 14th of February.

Q. You spoke to the prisoner—you went to see him? A. I did not go to see him until after the Duck Lake fight.

Q. You did not know what position he was in of your own knowledge? A. Not till after the Duck Lake fight.

Q. When you saw him after the Duck Lake fight, was he with Riel? A. He was among them.

Q. It is this document you recognize as being in the prisoner's writing? A. Yes.

Mr. Osler.—I will read the document.

"DEAR RELATIVES,—We thank you for your friendly feelings and sympathies displayed in your communications of 23rd instant.

"Be courageous. Since you are willing to help us, we accept your friendly offers and will not leave you exposed to danger. May God bless you in all your good intentions. May He direct all your actions.

"Justice commands to take up arms, to the end that we may attain our common salvation. Notify the Wood Indians that they be not surprised. Let them, while

remaining calm and courageous, be ready to seize all the ammunition, goods and property pertaining to the Hudson Bay Company at Mud Lake and Fishing Lake. Neither kill nor molest nor ill-treat any persons unnecessarily, but take away arms.

"LOUIS 'DAVID' RIEL, *Exovede.*

"Per WILLIAM JOSEPH JACKSON, *Private Secretary.*"

Q. His name is not Joseph? A. No.

Q. Where does that come in? A. That is dated after his insanity commenced, from the time he was christened in the Roman Catholic Church he has been insane.

Q. Do you remember the date of that? A. About the 19th March.

Prisoner.—I was perfectly sane when I wrote that letter.

Q. You knew there was a fight? A. Yes.

Q. And that Mr. Riel was their leader? A. Yes.

Q. About what time was that your brother was there? At the time of the contest? A. About the 26th March, I believe.

Q. Was your brother there at that time? A. Not at the fight.

Q. Was he away from home? A. Yes, but I do not know exactly where he was.

Q. You were afterwards a prisoner? A. Yes.

By Mr. McArthur :

Q. When did your brother leave home? A. On the 14th February.

Q. What was his state of mind at that time? A. Perfectly sound.

Q. At the time you next saw him, when was that? A. Sometime after the Duck Lake fight, about three days after.

Q. What was his state of mind at that time? A. Unsound.

Q. In what respect? A. He hardly knew me when I first saw him, he was always praying, and from his general actions and appearance.

Q. That was on the 26th of March, the Duck Lake fight? A. Yes, and about the 30th of March I saw him.

Q. Do you know the date of this communication (referred to before as having been read by Mr. Osler)? A. No.

Q. Was it received by your people? A. No, that is a copy of one sent by Louis Riel to his relatives.

Q. Well, then, from the time of the Duck Lake fight, when did you next see him? A. About one week later. About the 5th of April, I suppose.

Q. Where was that? A. At Batoche.

Q. What was his state of mind at that time? A. The same condition, still unsound.

Q. When did you next see him? A. I remained with him till 12th of May.

Q. When you were discharged by the troops? A. Yes.

Q. Were you with him at that time? A. Yes, he was confined in the same room.

Q. Then you were both present together? A. Yes.

Q. Have you seen him since his capture by the troops? A. Yes, I was with him the first week occasionally.

Q. What was the state of his mind? A. Still insane, he became worse after his capture by Middleton.

Prisoner.—I never considered myself a prisoner of Riel's.

Close of case for Crown.

DEFENCE.

DR. JUKES, sworn:—

Examined by Mr. McArthur :

Q. You are a physician of how many years' standing? A. About thirty-five years' standing.

Q. What is your position now? A. I am surgeon of the North-West Mounted Police force.

Q. Stationed? A. At Regina.

Q. Do you know the prisoner? A. Yes.

Q. Is he under your supervision? A. Yes.

Q. As a medical officer? A. Yes.

Q. Have you examined him as to the state of his mind; as to his sanity? A. I have watched him from day to day since he has been placed under my care.

Q. What do you say as to his mind? A. I think he is unquestionably of unsound mind.

Q. Has been since he has been brought to Regina? A. When he was first brought down he showed occasional symptoms. I was under the impression that he was insane, not only from my own observation but from what I heard and from what I was told by the officer who came down with him from Batoché. During the time he has been in the guard room, on account of the quiet and repose since he came down, he improved very much, and I formed the impression that he would be restored with proper treatment. Since the commencement of the arrangements for this trial, news of which reached him, I have noticed that he is very much worse. To-day I consider him better than at any time for four weeks, but I am still under the same opinion that he is laboring under a mild form of insanity, which is curable under proper treatment.

Q. You made a report? A. Yes, to that effect, to the commissioner of the forces

By Mr. Osler :

Q. Is he so insane that it would be fair to say he was not responsible for his actions? A. There are times when I consider he would be quite responsible. To-day he spoke and reasoned with me in a manner that was very clear, but only three days ago he was dazed; his mind seems to be dazed. I don't think that to bring him at a moment's notice that he would be capable of conducting his trial or of doing justice to himself in any manner.

Q. To a considerable extent your opinion is that he could not control his actions? A. I have never seen anything about him to give me the impression that his actions were uncontrollable, it is rather his mental hallucinations, his ideas. He holds peculiar ideas on religious matters in connection with this trouble, and in connection with the new religion of which he thinks Riel is the founder, and which he thinks it is his duty to sustain.

Q. Would this be consistent with his committing crime? A. If he spoke rationally I would think so, but he does not.

Q. Then you would not hold him responsible for acts done in connection with these ideas? A. If he committed any acts in the condition he is in now I would not hold him responsible. The slightest excitement produces a great effect upon him. I understand from Riel that he confined him for his own sake, as he would not be safe if left alone.

Q. In asking the history of the case it came to your knowledge, you found that that was the report? A. In looking into the case of insanity the question of its being hereditary is most important—not only the history of his own life, but that of his forefathers. Of that I could hear nothing. I have, however, learned from parties who have known him for some time past something of his past life, and the tendency of the knowledge so gained corroborates my own view of the case. I think I am justified in saying that he would not now, in his present condition, be accountable for any actions he might perform.

Q. Is it better he should be put under treatment? A. He should be placed under treatment, and if he were a friend of mine I would wish to have him put under treatment, and with every reasonable prospect of recovery.

Dr. COTTON, sworn:—

Examined by Mr. McArthur :

Q. You are a physician? Yes.

Q. Of how many years' standing? A. Four years.

Q. What is your position now? A. Medical man in Regina.

Q. Are you connected with the force? A. No.

Q. Do you know the prisoner? A. I have known him since the 19th July.

Q. How did you come to see him upon that occasion? A. I was called to see him by Capt. Dean, through the Deputy Minister, to examine him as to his insanity. I examined him by myself first, and found him in a state of melancholia, a mild form of insanity. I called on Dr. Jukes, and he and I went to see Jackson, and he appeared apparently about the same. I had an interview with Monkman, the prisoner. He stated some facts in regard to the insanity of the prisoner prior to the 24th of March, and then I had an interview with Riel, and he stated something similar.

By Mr. Osler :

Q. In enquiring into the case these reports came to your knowledge? A. I could not get any information as to his family prior to this or of his former life.

By Mr. McArthur :

Q. Then what is your opinion as to the state of his mind? A. Of course I am of opinion that he is insane and not of sound mind.

Q. Does your opinion concur with that of Dr. Jukes? A. Yes.

Q. As to whether he is responsible for his actions or not? A. Yes.

By Mr. Osler :

Q. You say he is not responsible? A. No, not at the present time, not at the times I have seen him.

Mr. Osler.—I am satisfied that the jury should return a verdict of "not guilty" on the ground of insanity upon this evidence. We cannot contest it. We have other evidence in our possession confirming it. The jury shall be required to find specially whether such person or persons were insane at the time the offence was committed, in accordance with section 99 of the Act respecting procedure in criminal cases: "In all cases where it is given in evidence upon the trial of any person charged with any offence, whether the same be treason-felony or misdemeanor, that such person was insane at the time of the commission of such offence, and such person is acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of such offence, and to declare whether he is acquitted by them on account of such insanity; and if they find that such person was insane at the time of committing such offence the court before whom such trial was had shall order such person to be kept in strict custody, in such place and in such manner as to the court seems fit, until the pleasure of the Lieutenant-Governor be known."

Mr. Justice Richardson.—You have heard what it is proposed what shall be done with this man. I shall now read to you section 99 of the Criminal Procedure Act already referred to by Mr. Osler. (Reads the section.) Well, now, the prisoner is charged with a felony. Evidence has been given as you have heard, showing that at the time of the commission of the offence, he was insane. Are you satisfied that such was the case? The question now for you is, are you satisfied that such was the case? If so (and the Crown agrees to that) you will simply acquit him on the ground of his insanity. Are you satisfied he was insane at the time he committed the offence charged? Are you all agreed?

Jury find a verdict of "not guilty on the ground of insanity."

Mr. Justice Richardson.—Mr. Sheriff, this man Jackson, you are to keep in strict custody at Regina until the pleasure of the Lieutenant Governor is made known.

Court rose at 4 p.m.

THE QUEEN vs. MOISE OUELLETTE.

Tried before his Honor Mr. Justice Richardson, at Regina, 5th August, 1885.

His Honor.—Read the indictment.

The Clerk reads the indictment as follows :—

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario, in the Dominion of Canada, chief of police, taken the fifth day of August, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith :

That Moïse Onellette not regarding the duty of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear towards our said Lady the Queen, on the twenty-sixth day of March, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that day, together with divers other evil disposed persons to the said Alexander David Stewart unknown, feloniously and wickedly, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, and within Canada, in order by force and constraint to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention, then feloniously and wickedly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say: In order to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said person above charged, afterwards, to wit: on the 6th day of March, in the year aforesaid, and on divers other days and times, as well before as after that day, at and near the locality called Batoche, in the North-West Territories of Canada, aforesaid, feloniously and wickedly did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm, in contempt of our said Lady the Queen and her laws, to the evil example of all others in the like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

A. D. STEWART.

Sworn before me the day and year first above-mentioned, at the town of Regina, in the North-West Territories of Canada. }

HUGH RICHARDSON,

A Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way without the intervention of a jury. Which do you elect ?

Prisoner.—Before a magistrate without a jury.

His Honor.—Now, having heard the charge preferred against you read, say you, are you "guilty" or "not guilty" ?

Prisoner.—Guilty.

Mr. Burbidge.—I ask that the prisoner be remanded for sentence.

Mr. Clarke.—The prisoner has thrown himself on the mercy of the court more in consideration of the fact of his fellow prisoners having done the same. There are a great many circumstances in this case that will prove considerable mitigation in his favor. I believe it is a fact he crossed the battle field at great risk to carry a letter from the general to the rebel chief, and that he returned when he had an opportunity to escape, and there are several other circumstances that will be brought to your notice, to induce you to deal mercifully with the prisoner, if your Honor will allow time for the affidavits to be prepared.

His Honor.—The order will be that he be remanded to be brought up for sentence when called upon.

THE QUEEN vs. LOUIS GOULET.

CANADA:
North-West Territories. }

The information and complaint of George Holmes Young, of the city of Winnipeg, in the Province of Manitoba, in the Dominion of Canada, gentleman, taken the seventh day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories, who saith :

That Louis Goulet, not regarding the duty of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance, which every true subject of our Lady the Queen should and of right ought to bear towards our said Lady the Queen, on the second day of April, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers other evil disposed persons to the said George Holmes Young unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within Canada, in order, by force and constraint, to compel Her Majesty to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention, then feloniously and wickedly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say :

In order to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Louis Goulet, afterwards, to wit, on the second day of April, in the year aforesaid, and on divers other days and times, as well before as after that day, at and near the locality called Frog Lake, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said George Holmes Young unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

GEORGE H. YOUNG.

Sworn before me the day and year first above
written, at the town of Regina, in the
said North-West Territories. }

HUGH RICHARDSON,

Stipendiary Magistrate in and for said North-West Territories of Canada.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way without the intervention of a jury. Which do you elect ?

Prisoner elects trial by a judge.

Pleads "not guilty" on 8th September, on being charged in open court.

Mr. Osler.—In this case, your Honor, we have considered the evidence very carefully that the Crown has against the prisoner. There is ample to put him on his trial, but the Crown, desiring not to prosecute harshly, are willing to discharge the prisoner now on his own recognizance to appear when called for. That means this, that if no serious offence turns up hereafter, putting a different complexion upon the crime with which he is charged, and if he behaves himself in future, he will not be disturbed, and in effect will go free. If, on the contrary, the further evidence of a serious nature transpires, making it absolutely the duty of the Crown to prosecute, then we would have to notify him to appear to take a trial; but in effect, the Crown having diligently enquired in the neighborhood, in all probability if things rests as they are, the man will not be called upon to respond.

Mr. Johnstone.—I suppose, your Honor, he should have some reasonable notice.

Court.—Certainly; I don't think I usually try people without seeing that they have notice.

Mr. Osler.—If things are as they now appear, it will be the last he will hear of it, and we will take his recognizance now in \$400.

Recognizance now taken, and prisoner released.

THE QUEEN vs. CHARLES BREMNER ET AL.

CANADA:

North-West Territories.

The information and complaint of George Holmes Young, of the city of Winnipeg, in the Province of Manitoba, in the Dominion of Canada, gentleman, taken the seventh day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:

That Charles Bremner, James Bremner, William Frank, Henry Sayer and Baptiste Sayer, not regarding the duties of their allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen should, and of right ought to, bear towards our said Lady the Queen, on the second day of May, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers other evil-disposed persons to the said George Holmes Young unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within the Dominion of Canada, in order, by force and constraint, to compel Her Majesty to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention, then feloniously and wickedly did express, utter and declare, by divers overt acts and deeds hereinafter mentioned, that is to say:

In order to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Charles Bremner, James Bremner, William Frank, Henry Sayer and Baptiste Sayer, and each of them, afterwards, to wit, on the second day of May, in the year aforesaid, and on divers other days and times, as well before as after that day, at or near the locality known as Cut Knife Hill, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil-disposed persons to the said George Holmes Young unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further, to bring to effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Charles Bremner, James Bremner, William Frank, Henry Sayer and Baptiste Sayer, and each of them, afterwards, to wit, on the fourteenth day of May, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that day, at or near the locality called Eagle Hills, in the North-West Territories of Canada, aforesaid, with force and arms, wickedly and feloniously did assemble, meet, conspire and consult with certain other evil-disposed persons to the said George Holmes Young unknown, to seize and take possession, by force, of certain goods and merchandise belonging to Her Majesty the Queen, which were then being carried and transported from the locality known as Swift Current to the locality known as Battleford, in the said North-West Territories of Canada aforesaid, for Her said Majesty, and for the use and benefit of Her said Majesty.

In contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity..

Sworn before me the day and year first
above mentioned, at the town of
Regina, in the said North-West
Territories of Canada.

GEO. H. YOUNG.

HUGH RICHARDSON,

Stipendiary Magistrate in and for the said North-West Territories of Canada.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace with the intervention of a jury of six, or before a stipendiary magistrate in a summary way, without the intervention of a jury. Which do you elect?

Prisoners all elect, on 8th September, when called upon in open court, trial by a judge alone.

Prisoners all plead "not guilty."

Mr. Osler.—Your Honor, in these cases, the prisoners are charged with having been concerned in the late rebellion. They were in the Indian camp of Poundmaker and the Crown has evidence against them, showing that to some extent, at all events, they joined in resisting the forces of the Government. In one case, military clothing, and in another case, a police rifle was found in the possession of the prisoners, but, perhaps we have considered the prisoners were in a very difficult position. They were brought into the camp, probably without their consent, by a large body of armed Indians, and having got into that camp they may have been led into the acts complained of without knowing the serious position they were placing themselves in by so doing. We have considered that originally the desire probably of all the prisoners was to stay in their settlement. We have considered, also, that they had their families and their property to protect, against, perhaps, some uncontrollable violence of the Indians surrounding them. They were in a very difficult position.

The Crown, considering all these things, and not being able to bring home acts of personal violence against any of them, and learning that they were all men of good character before the trouble came out, we have considered that perhaps the ends of justice would be attained by allowing them to be discharged on their own recognizance to appear when called upon for trial, and I might say on behalf of the Crown, that unless the evidence implicating the prisoners with acts of personal violence appears, that as far as that offence of theirs against their allegiance is concerned, the Crown do not propose to call upon them to answer. It will only be in the event of evidence turning up to show that they were personally implicated in acts of violence during the rebellion that the Crown will call upon them to respond.

Prisoners' own recognizances taken and the prisoners are released.

THE QUEEN vs. MAGNUS BURSTON.

CANADA:
North-West Territories. }

The information and complaint of Frederick Kelloch Gibson, of the town of Regina, in the North-West Territories of Canada, deputy sheriff, taken the fourteenth day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories, who saith:

That Magnus Burston, not regarding the duty of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our said Lady the Queen should and of right ought to bear towards our said Lady the Queen, on the twenty-sixth day of March, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers other evil-disposed persons to the said Frederick Kelloch Gibson unknown, did within the Dominion of Canada, compass, imagine, invent, devise, and intend to levy war against our said Lady the Queen, within Canada, in order by force and constraint to compel Her Majesty to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention, then feloniously and wickedly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say:

In order to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Magnus Burston, afterwards, to wit, on the twenty-sixth day of March, in the year aforesaid, and on divers other days and times, as well before as after that date, at and near the locality called

Duck Lake, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further, to fulfil, perfect and bring to effect his felonious compassing, imagination, invention, device and intention aforesaid, he, the said Magnus Burston, afterwards, to wit, on the third day of April, in the year aforesaid, and on divers other days and times as well before as after that day, at and near the locality known as Duck Lake, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together, with divers other evil disposed persons to the said Frederick Kelloch Gibson unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

In contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

FRED. K. GIBSON.

Sworn before me the day and year first
above written, at the town of Regina,
in the said North-West Territories.

HUGH RICHARDSON,

Stipendiary Magistrate in and for said North-West Territories.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way without the intervention of a jury. Which do you elect?

After various adjournments, on application of both the Crown and the prisoner, this case came on for trial before His Honor Judge Richardson, Saturday, 10th October, 1885, without a jury, prisoner having elected trial before judge alone.

Mr. D. L. Scott appearing for the Crown. Mr. T. C. Johnstone for the prisoner.

JOHN W. ASTLEY, sworn:—

Examined by Mr. Scott:

Q. You live at Prince Albert; Mr. Astley? A. Prince Albert; yes.

Q. You are a civil engineer, I understand? A. Civil engineer.

Q. You joined the Prince Albert volunteers? A. I went up to Carlton with them.

Q. About what time? A. About the 19th March—19th or 20th March.

Q. And when on active service as a volunteer, you were taken prisoner? A.

When I was out scouting in the French half-breed settlement.

Q. On what day? A. On the morning of the 26th March.

Q. By whom? A. By French half-breeds and Indians, under the leadership of Louis David Riel.

Q. What were they doing at this time? A. They were in open rebellion.

Q. Whereabouts? A. Duck Lake—Duck Lake and Batoche.

Q. Have you any means of knowing what object they had in going into rebellion? A. Well, just that they had taken possession of Duck Lake stores that same morning, and, of course, as Riel said, they were fighting, themselves and the police, against the Government.

Q. Were they armed? A. They were all armed; yes.

Q. How many half-breeds and Indians were there? A. I should say between 400 and 500—somewhere about that.

Q. What was done after you were taken prisoner; where were you taken? A. I was taken near Duck Lake, and kept up in the telegraph office first, and then up stairs over the store.

Q. How long were you kept there? A. I was kept there till the 31st March.

Q. Where were you then taken? A. Then I was taken to Carlton.

Q. How long were you there? A. I was there till the 3rd April, when I was removed from that to Batoche.

Q. And remained at Batoche how long? A. I was there till the 12th of May.

Q. Were you present all that time? A. All that time; yes.

Q. Were these men in open rebellion at that time? A. I was sent out with some messages to Gen. Middleton. The place was taken by Gen. Middleton and the troops under him.

Q. What troops? A. The volunteers and troops under Gen. Middleton.

Q. And Batoche was taken? A. On the 12th of May.

Q. And you were released? A. Were released.

Q. Were there any others besides you? A. Seven other prisoners in the cellar, besides myself.

Q. Kept there from about the 26th March? A. Until the 12th May.

Q. And the rebellion continued till the 12th May? A. Until about that time; yes.

Q. Do you know the prisoner? A. Yes. I have seen the prisoner at Duck Lake.

Q. Did you know him or see him before you were arrested? A. Yes.

Q. Before you were taken prisoner? A. Yes, I have seen him around there, and I saw him the evening before I was arrested. I was arrested at two o'clock in the morning.

Q. Where did you see him the evening before? A. At Duck Lake post, that is Mitchell's store.

Q. You were there the night before? A. Yes, I passed there the evening before.

Q. He was then at Mitchell's store? A. He was then at Mitchell's store.

Q. What was he doing there? A. I don't know what he was doing myself.

Q. Did you see him doing anything? A. Not at that time. I just saw him and another fellow around the store, that is all.

Q. When did you see him next? A. I saw him after I was a prisoner on the 26th March there. I saw him off and on, the 26th till the 31st, I saw him there at Duck Lake.

Q. What was he doing those times? A. He appeared to be going backwards and forwards in the store with the half-breeds whenever they wanted any stuff out of the store, but I thought he was just the same as all the rest of the half-breeds.

Q. What ground had you for thinking so? A. Well, he was associating with them all the time. He was with them all the time.

Q. Did you see him on the day of the Duck Lake fight—there was a fight? A. There was a fight that same day I was taken prisoner.

Q. Between whom? A. The French half-breeds and the Indians under Riel, and the police under Major Crozier.

Q. Did you see him on the day of the fight? A. No, I did not notice him on the day of the fight. I saw him that same morning, but I did not see him going with the breeds.

Q. When you saw him was he around Mitchell's store? A. Yes, that is where he was, between that and the house.

Q. Did I understand you to say he was handing out goods? A. I could not see him. I would see him going over to the store with them.

Q. What did he do when he got over to the store? A. Of course we could not see the store. We could not see into the store from where our building was.

Q. Did you see him afterwards at Batoche? A. I saw him afterwards at Batoche, just a few times over there. He was stationed on the north side of the river.

Q. How do you know? A. Well, I did not see him around with the rest of the men on our side like we did most of them. I just saw him a few times over there.

Q. What time was this? A. That was between the 3rd April and the 12th May.

Mr. Johnstone.—There is no charge subsequent to the 3rd April.

Mr. Scott.—Yes, we have the charge that covers the ground previous to the 3rd April, and subsequent to the 3rd April.

By Mr. Scott :

Q. What was he doing there when you saw him at Batoche? A. I just saw him around with some of the other French half breeds.

Q. In what condition was he? A. Well, he was just walking around there. That was all he was doing at that time.

Q. At any time you saw him? A. At any time I saw him at Batoche.

Q. What condition were the other men in? A. Sometimes they would be armed and sometimes they would not be armed.

Q. Was he in the same condition? A. He was not whenever there was any excitement—not that I saw.

Q. Did you ever see him armed? A. Not at Batoche.

Q. Or at any place? A. I saw him with a rifle or shot gun at Duck Lake. I don't know whether it was a rifle or shot-gun.

Q. You saw him at Duck Lake? A. Yes, one day I was there—I don't remember what day it was—some of those days when I was there I saw him with a gun.

Q. Anything else besides the gun that you saw? A. No, that was all that I saw at that time.

Q. It may have been a gun or a rifle? A. I could not tell which.

Q. Was he a prisoner there? A. No more a prisoner than anyone else, as far as I could see.

Q. You say he appeared, as far as you saw, he appeared to be one of them? A. Yes, one of themselves, as I thought at the time.

Cross examined by Mr. Johnstone :

Q. Do you know if the prisoner was not charged with that store? A. Well, that was what I was just telling you, as to what Mr. Mitchell told me.

Q. Did Mitchell tell you he was in charge of his store? A. Mitchell told me a fellow named Blackburn and Magnus Burston were in charge of his store.

Q. How far is Mitchell's store from where the fight took place? A. I would say about a mile, and a half.

Q. Now when you saw him you say you saw him with a gun. Can you give us any description of it? How far away was he from you when you saw him? A. He was quite close. We used to go down stairs from where we were prisoners—up stairs. We were allowed to go now and again during day time.

Q. And did you examine his gun? A. No.

Q. Did you pay particular attention to it? A. No, I just happened to notice that he was armed.

Q. You would not say whether it was with a rifle or shot gun? A. No.

Q. Why can't you say? A. Because I could not notice it. I was not close enough to him to notice it.

Q. Now when you say you saw him at Duck Lake, you mean not at the place where the fight took place? A. No, but where the stores and buildings were.

Q. Did you see him there during the time of the fight? Was he around where you were during the time of the fight? A. No, I did not notice him there during the time of the fight.

Q. And you have never seen him at any of the fights? A. No.

Q. And at Duck Lake was the only occasion on which you have ever seen him armed? A. That is all.

Q. Do you know that the prisoner has been a sickly man? Were you well acquainted with him? A. No; I have heard Mr. Mitchell say that he was not a very healthy man.

Q. Do you know what instructions he had when he was placed in charge of Mitchell's store? A. No, I don't know.

By Mr. Scott :

Q. Where did Mr. Mitchell tell you this? A. He told me up at Carlton first, and then he mentioned it again down here.

Q. Did he say anything else at the same time about the prisoner?

Mr. Johnstone.—I object to this.

Mr. Scott.—I want to hear the whole conversation.

Mr. Johnstone.—I did not put the question what Mr. Mitchell had told him. I asked him if he knew that the prisoner was in charge.

Mr. Scott.—And then you asked him what Mitchell said.

Court.—The whole conversation may be asked.

By Mr. Scott:

Q. At the time you heard this from Mr. Mitchell, what else did you hear Mr. Mitchell say about the prisoner? A. Well, what he spoke to me first was at Carlton, when I told him I had seen Magnus Burston there and an Indian named Blackburn, and he said he had left those in charge of his place, and down here he mentioned it again, that he had left them in charge.

Q. Was that all? I speak of the first conversation? A. That was all he told me at the first time, that he had left them in charge. He said those men he had left in charge.

WILLIAM TOMKINS, SWORN:—

Examined by Mr. Scott:

Q. You are an interpreter for the Indian Department? A. Yes.

Q. Where were you on the 18th of March last? A. I was at Batoche, taken prisoner.

Q. By whom? A. By Riel and his followers.

Q. Who were his followers? A. Half-breeds and Indians.

Q. What were they doing at this time; why did they take you prisoner? A. They thought we might go home to Carlton.

Q. What were they doing? A. They were in a rebellious state.

Q. They were in a state of rebellion at that time, and they took you prisoner? A. Yes.

Q. How many followers had Riel? A. Four hundred or 500, I should think.

Q. What was the object of the rebellion, do you know? A. As far as I could find out, they wanted to start a new government.

Q. Who did you hear that from? A. It came pretty near from Riel.

Q. Who did you hear speaking about it? A. Half-breeds.

Q. Where were you taken to on the 18th March? A. Taken to the church at Batoche.

Q. And from there? A. Taken across the river to Walters' store.

Q. Where was that—at Duck Lake? A. No; across the river; across the South Branch; at Walters' store.

Q. And that was on what day; what day were you at Walters'? A. The 19th, I think.

Q. And where were you taken then? A. Taken back to the church.

Q. And from there? A. Taken to Garnot's, and from there to Duck Lake.

Q. And when did you reach Duck Lake? A. 26th March.

Q. Where were you taken to after that—to Carlton? A. Yes.

Q. And from there back to Batoche? A. Yes.

Q. Now, how long were you a prisoner? A. Two months, nearly.

Q. What day were you released? A. I was released on 12th May.

Q. Did anything happen on the 26th March when you were at Duck Lake? A. Yes, there was a fight took place.

Q. Between whom? A. Between Riel's followers and the police and volunteers.

Q. How do you know that? A. Riel told me so.

Q. Riel told you that there had been a fight? A. Yes.

Q. Do you know the prisoner? A. Yes.

Q. How long have you known him? A. Four or five years.

Q. Did you see him during the time you were a prisoner? A. Yes.

Q. Where first? A. I seen him at Duck Lake on the 26th.

Q. What was he doing at that day, do you remember; what was he doing when you saw him? A. Well, I seen him once; he was standing at the store door, Mitchell's.

Q. Afterwards? A. I seen him across the river at Batoche.

Q. Did you only see him once on the 26th? A. I could not say. I am sure I seen him once.

Q. Then the only thing you saw him doing was standing at Mitchell's store door? A. Yes.

Q. Any others there? A. Yes; there was quite a number there.

Q. What state were they in? A. In a state of rebellion.

Q. What condition were they in; were they armed, those men? A. Yes; they were all armed.

Q. Was the prisoner armed? A. Yes.

Q. The prisoner was armed at that time? A. Yes.

Q. Did you see him doing anything? A. No.

Q. All that you saw him doing on that day was standing with the others at Mitchell's store door? A. Yes.

Q. Was the store open, could you see? A. I could not see, he was standing at the corner. I just noticed him amongst the others. I know he was not at the fight.

Q. What was he doing when you saw him at Batoche? A. He came over after a tent I thought.

Q. What led you to think that? A. Well, he put it on horse back and took it back across the river.

Q. You saw him taking a tent across the river; where did he procure it, do you know? A. He came out of the council room, I think, I am not sure.

Q. Out of the place where the council held its meetings? A. Yes.

Q. What council? A. Riel's council.

Q. Bringing a tent and taking it across the river? A. Yes.

Q. Was that the only time you saw him? A. I seen him when we were coming from Carlton.

Q. Where was he then? A. At Duck Lake loading on a fanning mill on a sleigh and sending it home, that was the time that the telegraph office was on fire, the time we passed by.

Q. Who did the telegraph office belong to? A. It belonged to the Dominion Land Office or Government Office.

Q. How far was that from Mitchell's store? A. I suppose about fifty yards.

Q. Was Mitchell's store standing? A. There was the telegraph office, and then his residence and then the store.

Q. Were his residence and the store standing at that time, at the time you passed through from Carlton? A. Yes.

Q. They were there? A. Yes.

Q. What became of them afterwards, do you know? A. They were burnt.

Q. And when you came through the telegraph office was burning. A. Yes.

Q. Who had possession of that particular locality at that time? A. Well, I could not say.

Q. How did you happen to be coming through there, you were a prisoner at that time? A. A prisoner.

Q. Was anyone in charge of you? A. Yes.

Q. Who, how many of them were guarding you? A. About eighty, I should think.

Q. About eighty guarding you when you came through? A. Yes.

Q. Did you see any other half-breeds about Duck Lake? A. Yes.

Q. How many? A. I should think there was about ten or twenty, I could not say for certain.

- Q. Were there any others about besides the half-breeds? A. No.
- Q. There were no others? A. No, none that I saw.
- Q. These ten or twenty men that you saw around the settlement there, were they armed or otherwise? A. They were armed.
- Q. And you say you cannot tell who had control of the Duck Lake settlement at that time, whether it was the rebels or the Government troops? A. Oh, it was the rebels.
- Q. The rebels had control of that part of the country? A. Certainly.
- Q. At the time these buildings were burning? A. Yes, certainly.
- Q. And when the telegraph office was burning, you saw this man? A. Yes, he was there.
- Q. Sending a fanning mill away? A. Yes.
- Q. Had you any conversation with him? A. No.
- Q. Did you see him doing anything else? A. No, I did not.
- Q. Was he armed or otherwise at that time? A. Well, he was working. I don't know whether he had a gun with him or not then.

By Mr. Johnstone :

- Q. You said in your examination-in-chief that you knew the prisoner was not at Duck Lake fight; how did you know that? A. I seen him standing there when the fight was going on.
- Q. Standing where? A. At Duck Lake.
- Q. And the fight took place how far away from that? A. A mile and a-half.
- Q. Had you any conversation with him at that time? A. I had, down stairs, once.
- Q. Was he armed at that time? A. I could not say; he was in the room, I could not say whether he had a gun there then or not.
- Q. You did see that he was armed previous to that? A. Yes, I seen him with a gun once.
- Q. When? A. At Duck Lake.
- Q. That day? A. Yes.
- Q. Was it a shot gun or a rifle? A. I should think it was a shot gun.
- Q. And did you pay particular attention? A. No, I did not.
- Q. Did you ask the prisoner why he was taking part or if he was taking part? A. Yes, I did.
- Q. Did you ask him why he was armed? A. No, I did not. He told me he was compelled to join the rebels. I mind him telling me that.
- Q. And did he give that as an excuse or an answer to your question? A. Well, I thought it in that way.
- Q. Well, did it appear to you that he was compelled from occurrences and circumstances? A. Well, I could not say.
- Q. Did you see the prisoner take part at any time in the rebellion? A. No.
- Q. Did you see him try to prevent it; prevent the rebellion, or prevent any fighting or any loss of life? A. Well, no, only what he told me he done, but that is only taking his word.

PATRICE FAGNANT, sworn :—

Examined by Mr. Scott :

(Through sworn interpreter, Joseph Morin, French.)

- Q. Where does he live? A. At Duck Lake.
- Q. How long has he been living there? A. Five years.
- Q. In what employment is he there? A. He is working as a laborer, for every person around the place.
- Q. Who was he working for at the time the rebellion broke out? A. He says he was not there when the trouble first started, he was at Sandy Lake.
- Q. How far from Duck Lake? A. He says he was with Mitchell making a trip.
- Q. When did he get back to Duck Lake? A. Two days after the trouble started.

Q. Did he get back before the Duck Lake fight? A. Yes.

Q. How many days before? A. He says he cannot tell how many days before. He does not recollect how many days before.

Q. When did Mitchell leave Duck Lake; I mean after they got back from this trip? A. He says when they came back with Mitchell, two days after that, the trouble started, he says; the trouble started two days before they got back.

Q. How long did Mitchell stay at Duck Lake after they got back? A. He says he seen them that day when they came—that evening.

Q. Seen whom? A. Seen Mitchell.

Q. I thought he was out with Mitchell? A. Yes, but they came back and when they came back, he saw him that day in the evening, and Mitchell started to come and see the half-breeds where they were together.

Q. He started to see the half-breeds? A. Yes.

Q. When did he last see Mitchell before the Duck Lake fight? A. That is the last he seen of him.

Q. When he started to see the half-breeds? A. Yes.

By the Court :

Q. And that was the evening after they returned from Sandy Lake? A. Yes.

By Mr. Scott :

Q. What does he call the breaking out of the rebellion; he says he got there two days after the breaking out, what does that mean? A. He says he means when they began to have meetings, to be together; that is what he meant.

Q. Did he remain at Duck Lake until after the Batoche fight? A. He says he was not there—

Q. I mean at Duck Lake? A. He says he was not at Duck Lake either. He says he was across the river.

Q. The witness was across the river? A. Yes.

Q. Was he at Duck Lake on the day of the Duck Lake fight? A. He says he was at Duck Lake, but he did not go to where they were fighting.

Q. But he was there that day? A. Yes.

Q. Did he see the prisoner on the day of the fight? A. He did not see him.

Q. He did not see him on that day? A. No.

Q. When did he first see him after the fight? A. He says he did not see him till a long time after.

Q. How many days after? A. He says he does not recollect how many days after.

Q. Does he know Hilliard Mitchell's store at Duck Lake? A. Yes.

Q. Does he know what became of it? A. It was burnt.

Q. Did he see it burning? A. He seen it from his own home where he was.

Q. Saw what? A. He seen the building burning.

Q. How far was his house away? A. He supposes about 100 yards.

Q. Did he see the prisoner that day? A. He seen him that day.

Q. Where was he? A. He seen him there at the house.

Q. When it was burning? A. No; another house.

Q. What other house? A. He seen him in Mitchell's house.

Q. Was that house burnt? A. He says it was burnt too.

Q. What was the prisoner doing when he saw him that day? A. He says he don't know very well what the prisoner was doing; he says he did not stop long enough to see what he was doing.

Q. Did he see him doing anything at all? A. He says he seen the house, it was already burning, and he says the prisoner was helping it to, he was starting the fire at the same building.

Q. The prisoner was? A. Yes.

Q. How was he starting it? A. He says he took some papers to light it.

Q. He saw him starting the fire with some paper, is that what he says? A. Yes.

Q. Ask him who had control of that part of the country at that time, whether it was the rebels or the Government? A. It was the half-breeds.

Q. Were they rebels? A. Rebel half-breeds.

Q. Were there any others around these buildings at the time? A. No one else.

By Mr. Johnstone:

Q. Ask him if he was a prisoner? A. No.

Q. What was he doing; what was he engaged at during the time of the rebellion? A. He says he was not hired to anybody then.

Q. Was he remaining with the other half-breeds? A. He says he was not with nobody there; he was not taking any part at the time he was there, when he was at Duck Lake.

Q. Ask him why he did not leave? A. He says he was left there; he says he did not have nothing to move with; he had no animals so he had to stop there.

Q. Does he know where Burston lives? A. Yes, he knows where he lives.

Q. How far is that from Duck Lake? A. About a mile and a-half or two miles from Duck Lake.

Q. In opposite direction from the place where the fight took place? A. Yes, at the river side.

Q. Ask him if he knows that Burston was living at home during the time of the rebellion? A. Yes; he knows that the prisoner was at his home at the first fight.

Q. Now, the day on which the fire took place, wasn't the witness in Mitchell's house with the prisoner? A. No.

Q. Ask him if he is sure? A. Yes; he was not living with him.

Q. Ask him if he, the witness, was in Mr. Mitchell's house on that day? A. No.

Q. Ask him if he remained in his own house during the whole of that day—the witness? A. He says he did not stay there all day. He went up to where his uncle was living, but he was not long there.

Q. Was he in Mitchell's yard on that day? Did he go to Mitchell's yard and take away a hand-rake? A. No.

Q. Now, did he see the prisoner at Mitchell's store that day? A. Not that day.

Q. Then the only place he saw him was at the house? A. Yes.

Q. Now, did this witness, when the buildings were on fire, did he take the windows off the store or the house—the witness? A. He says the prisoner told him to take the windows off the house, and he says he took three, and he did not have time to take the whole of them; he could save only three.

Q. Then he was at Mitchell's house? A. Yes.

Q. Now, was the house on fire at this time? A. It was burning; he only had time to take three or four off.

Q. Now, did he see the commencement of the fire? A. He says he seen the smoke.

Q. How long previous to the time he was there to take the windows off, was it he saw the smoke? A. He says not very long after that he seen the smoke, and he went up there and saw the house burning.

Q. Where was the smoke coming from when he saw it? A. He says from below, from down stairs.

Q. What part of the down stairs; was it coming out of the doors and windows? A. He says he seen the smoke coming from doors and windows.

Q. Ask him was that the first he knew of the fire? A. It was, he says, not long since the fire was in the house that he was there.

Q. Was that the first he knew of the fire, when he saw the smoke? A. Yes.

Q. Now, where was he standing when he saw the smoke? A. As he was coming along near to the house.

Q. Where was the prisoner at this time, when he was coming along and he saw the smoke? A. He says he was coming from his house to where this fire was.

Q. The prisoner was coming from his house? A. From his own house.

Q. Where the fire was? A. Yes.

Q. Then when he says his own house, what house does he mean? A. He says it was no his own house. He was living with his mother-in-law then at the time.

Court.—That is when he was coming along and saw the fire, he says this man—witness—was coming along too?

Mr. Johnstone.—No.

Q. Ask him if it was the prisoner that was coming from his mother-in-law's, when he saw him, and the house on fire? A. No, the prisoner was there before he came to the house.

By the Court :

Q. Whose mother-in-law does he speak of; his own mother-in-law or Burston's? A. His mother-in-law.

Mr. Scott.—What the witness said was that the prisoner was coming from his mother-in-law's house, when he, the witness, first saw Burston.

Mr. Johnstone.—He says the first he knew of the fire, he saw the smoke.

Q. How far was his house from the burning one? A. He says that is what he told you in the first place. It was his home, as far as from this court house to the first church (100 yards).

Q. When he came along and saw the smoke, was that the first time he saw the prisoner on that day? A. That was the first time he saw him.

Q.—Were there any other persons around the house at the time? A. Nobody else but the prisoner.

Q. How far was the prisoner from the house when he saw him? A. He says he was right close to the house.

Q. Ask him where it was he saw the prisoner with the paper? A. He says right in the house.

Q. Then it must have been after the fire that he had seen the smoke? A. He says the first fire that was put on the house, it slacked, and the prisoner started it again.

Q. The first fire was slacked? A. Yes.

Q. How does he know that? A. He seen the place where it was fired.

Q. Then was that the fire that gave rise to the smoke that he first saw? A. No, the first smoke he seen, he says it was off another building that was burning there.

Q. Which building was on fire; ask him? A. He seen a little office on fire first.

Q. A little telegraph office on fire first? A. Yes, a little office. He says that office was burning while he was at his own place.

Q. Ask him if he saw Burston then? A. No.

Q. Ask him if it was in Mitchell's store or in Mitchell's house that he saw the prisoner with the paper? A. It was in Mitchell's house he says.

Q. Now, was it prior to this time that he saw the smoke in Mitchell's house that he first spoke of? A. He says that is the house. He is certain that is the house. It was smoking a little while and he says it went down again. He is certain he says that is the house smoking first.

Q. Whereabouts in the house was it that he was putting the paper? A. He started it on a partition of the house.

Q. Inside? A. Yes, inside.

Q. In what room in the house was he when he saw this? A. He was standing right at the door.

Q. Which door? A. He says he was standing at one of the doors of that partition of the room that was on fire.

Q. Inside the house? A. Yes.

Q. Ask him if the first fire was out when he came in the house? A. Yes, it was.

Q. Ask him if he put it out? A. No. It was a little fire yet, but we could see it was just going out.

Q. Ask him if he added any paper to it? If he put any paper on the little fire?
A. No.

Q. Ask him if he tried to prevent the prisoner from setting fire to the building?
A. He says he did not stop him from putting the fire.

Q. Ask him if he attempted to stop him, if he tried to stop him? A. No.

Q. Were they the only two persons in the house? A. He did not see anyone else.

Q. Or did not see anyone around in the neighborhood? A. He could not say whether anybody was around or not. He did not see anybody.

Q. Where were all the half-breeds at this time? A. He says they all had left and come towards the river.

Q. Now, ask him to tell us how much paper the prisoner had? A. He says he could not tell how many, but a good deal, he says.

Q. What description of paper was it—what kind of paper? A. He says newspapers.

Q. Were they English or French newspapers? A. He says his own papers, but he could not tell if they were French or English.

Q. Can't he read and write? A. He says he can read a little French, but he did not go up and see the papers.

Q. Now, ask him where the prisoner went after that? A. He says he does not know which way he went.

Q. Ask him what he did with the windows he took off the house? A. He gave them to Mitchell.

Q. Ask him if the prisoner told him he wanted to take these windows—take them off, so as to save them for Mr. Mitchell? A. Yes, he thinks that is why the prisoner told him to take the windows—to save them. He understood it was for Mitchell.

Q. Did the prisoner tell him that he wanted to take these windows off to save them for Mr. Mitchell? A. Yes.

Q. Now, he says that he saw the prisoner, from his own house, standing at Mitchell's house; now, did the prisoner go in the house before he came up, or did he go in with him? A. He says he seen him standing outside over the house, and he went up there and saw the prisoner going in the house.

Q. And he went in at the same time? A. He says after the prisoner was in the house, he went right in shortly after, looking at him.

Q. Ask him if that was the only time in which he was in Mitchell's house on that day? A. Yes.

Q. Ask him if that was the time that they carried off the hand-rake—the witness and the prisoner?

Mr. Scott.—He says he did not carry off a hand-rake.

By Mr. Johnstone:

Q. Ask him if he saw a hand-rake that day? A. No.

Q. He did not see one at all? A. He seen it outside of the house.

Q. Ask him if he took it away when he took the windows? A. No, he went and left it at a mill.

Q. He took the rake away? A. Yes, he took the rake away, and went and left it at the mill—the witness did.

Q. Did he take it away that day, when the buildings were on fire? A. He says that is the time.

Q. Ask him if the prisoner was coming in the gate at the time he was taking the rake away? A. He did not see him coming.

Q. Well, where was he personally when he, the witness, took the rake away? A. He says he thought it was the window you asked him about. He says he never took the little hand-rake; he left it there. He says he meant the windows he took to the mill.

Q. Ask him if he saw any person take the rake away? A. He did not see anyone.

Q. Now, where was the prisoner when he, the witness, took the windows away? A. He says the prisoner told him to go and take the windows away, and he says he went and took the windows, and he left the prisoner in the house, and he did not see him.

Q. Ask him if he, the witness, took the windows down to the mill? A. Yes, he took them himself.

Q. Did he carry them all at once, or make more journeys than one? A. He says he took them all down in one trip.

Q. Whose mill did he take them to? Whose mill is this? A. He says a man named Beauprey's there.

By Mr. Scott:

Do I understand from this witness that when he started towards the building—towards Mitchell's house—that Burston was inside or outside? I understand him to say that he saw Burston before he went into the building. Ask him how long Burston was in the building before he got there? A. He was standing outside, he says; outside of the house.

Q. But after the witness saw Burston there the witness started to go towards the building, and I want to know how long Burston was inside the house before the witness got to the house? A. He says he don't know if the prisoner had went in the house before he got there—he could not say—the first time. He says he saw him outside.

Q. Was the prisoner in the house when he got there, or outside of it? A. Outside.

Q. When the witness got there? A. He was standing outside when he got to the house.

Q. Did they go into the house together? A. He says he went shortly after the prisoner went in.

Q. The prisoner went in first? A. Yes.

Q. And he went in shortly afterwards? A. Yes.

Q. Was the prisoner lighting the fire when the witness got inside? A. No.

Q. How long was it after that that he commenced to light this fire? A. He says shortly after.

Court.—That is the second fire.

Mr. Scott.—I am speaking of the fire at the house. Yes, the second fire. The first one was dying out, I understand.

Q. I want the prisoner's exact words, what he told the witness as to taking the windows out of the house? A. He says the prisoner told him to try to save the windows for Mr. Mitchell.

Q. He says he saved three windows; how many windows were in the house? A. He says he meant a pair and a half.

Q. Ask him how many windows there were in the house? A. There were a good deal, but he could not say how many windows.

Q. How long was it after the fire started that the prisoner told him this? A. When the house began to burn, the prisoner told him this, take that away.

By the Court:

Q. Ask him when they came together, he came up to the house and Burston was outside, what passed between them, if anything, before Burston went into the house? Describe the conversation, if anything? A. He says there had been a fire in the house before they were in the house, because, he says, he could see it was on fire.

Q. He has spoken of what was done and what he saw—one thing he says was that Burston was standing there when he came up, and after he came up Burston went in—now before Burston went in had he any talk? A. He says he don't recollect what the prisoner told him. The prisoner was talking to him, but he does not recollect what the prisoner told him.

Q. I don't ask him to give me the exact words, but he can give me the substance of what he said? A. He says he don't recollect. He remembers that the prisoner spoke to him before they went into the house, but he don't recollect what he told him.

By Mr. Scott :

Q. I just want to ask one more question. I understood him to say that the telegraph office was burning on the same day? A. Yes, it was on the same day, early in the morning.

By Mr. Johnstone :

Q. Where did Mr. Burston get the paper; did you see him get the paper? A. He took the papers inside the house.

Q. Where did he get them inside the house? A. He says all over on the floor.

WILLIAM TOMKINS, recalled :

By Mr. Scott :

Q. I think you said the telegraph office was burning when you came through, from Carlton to Duck Lake? A. Yes.

Q. What day was that, do you remember? A. The 3rd of April I think it was,

By Mr. Johnstone :

Q. Did you see any other buildings burning besides the telegraph office? A. Not at the time.

Q. At no time? A. No.

By Mr. Scott :

Q. What time was it you came through there? A. The morning I should think.

By Mr. Johnstone :

Q. Did you see any person around Mitchell's house; did you notice if there was any person around Mitchell's house where he dwelt? A. Yes.

Q. Who was there? A. No, I could not say that I did. I did not see anyone around the house.

Mr. Scott.—That is the case for the Crown.

Mr. Johnstone.—I ask your Honor to discharge the prisoner without going into the defence. The only evidence against him is the evidence of the last witness and I submit that unless his evidence is corroborated your honor could not convict; and the evidence of Mr. Tomkins merely shows that although he had a gun on the day of the rebellion he was not at the fight at all. He was taking charge of these buildings; and afterwards, the evidence of this man Fagnant shows that he took the windows off the building to save them for Mr. Mitchell, so that the only evidence given goes to show that the prisoner was there in the performance of the duty of looking after Mr. Mitchell's property.

Mr. Scott.—Lighting fires.

Mr. Johnstone.—That man's evidence is to be taken for nothing, I say, because it is not corroborated, and he is an accomplice.

Court.—I think I shall call upon you, Mr. Johnstone, for your defence. Of course it is not necessary, even that the man should have arms. You will recollect those Fenian cases, where a man was with the party, a newspaper reporter and a doctor. I think the prisoner will have to exculpate himself.

DEFENCE.

PETER TOUROND, sworn:—

Examined by Mr. Johnstone :

(Through interpreter, in Cree.)

Q. Do you know Burston? A. Yes.

Q. Do you remember the time that the buildings were burned last spring, at Duck Lake? A. Yes.

Q. What buildings did you see burning? A. He says he seen the telegraph office burning first, and after that, shortly, he saw the other buildings on fire.

Q. Ask him if he saw Mitchell's house burning? A. Yes.

Q. Did he see the fire when it commenced; the first appearance of it? A. He says he did not see it from inside of the house, but only he could tell it was a fire, as he seen the smoke going through the roofs. He says he went in the house that day before the house was on fire.

Q. Did he see the prisoner on that day? A. He seen him that day on the road.

Q. What was he doing? A. He says he was repairing a sleigh.

Q. How long was he working at the sleigh? A. He says he seen him there about a quarter of an hour working at this sleigh.

Q. Before, during or after the fire? A. He seen him working at the sleigh before the fire. He says when he first seen the fire come out of the house, the smoke, Mr. Burston was on the road then and the house was burning and he stood there with him a quarter of an hour, and he seen him when he got through fixing the sleigh on the road.

By the Court :

Q. Where were they when they saw the fire? A. They were near the house, on the road.

By Mr. Johnstone :

Q. Where the prisoner was working at the sleigh? A. Yes.

Q. And was it then and there that you observed this fire? A. Yes, he says, from where they were standing; they were both there together, and they saw the smoke coming out of the roofs.

Q. How far was this from the house; give us an idea of the distance? A. About an acre (200 yards).

Q. Were they in front of the house or in rear of the house? A. In front of the house, on the road.

Q. Did he see any persons there at the time? A. He says there were a good many people around there; he says there were about 60 at that time.

Q. Were these people around the house? A. He says they were all over—some outside of the house and some inside and some on the road.

Q. Now, how long after the witness was in the house was it that he noticed the fire? A. He says he stood there a long time, and he says they could see the flames coming down.

Q. He states that he was in Mitchell's house. Now, where was Burston at this time? A. He was on the road.

Q. Was he fixing the sleigh on the road at this time? A. Fixing the sleigh on the road.

Q. Now, did he go from Mitchell's house to where Burston was, direct? A. He says after he was talking to the prisoner he went around the house and came back to the prisoner, and talked with the prisoner again. He says when he went there he is certain he did not see any fire there, but he says shortly after the house was burning, but there were so many people around—

Q. How long did it take him to go round the house and come back to where Burston was? A. About five minutes; inside of five minutes.

Q. Was the prisoner working at these sleighs all this time? A. Yes; he says when he seen the fires started he was with him at the sleigh, and he says when he got through fixing the sleigh he says you could see the flames going through the house already.

Q. What did the prisoner say when he saw the house on fire? Did he say anything?

Mr. Scott.—That is not evidence?

Witness.—He did not tell him anything.

Q. Now, does he know who set fire to the building? A. No; there were too many; he could not tell.

Q. Was it the prisoner, had the prisoner anything to do with it? A. He says he does not think it. If it was said the prisoner done it he would tell it was not, because it was not the prisoner that done it.

Q. Would the prisoner, while he was behind the house walking round it—could the prisoner have gone to the house without his seeing him? A. He was not long enough, and it was not far enough. If the prisoner had went there he would have seen him.

Q. How far does Burston live from Duck Lake—from these buildings? A. About two miles.

Q. Now, ask him if he knows the prisoner was in charge of these buildings.

Mr. Scott.—That is no way to put the question. I object to the question being put in that way.

Court.—It has nothing to do with it. The prisoner may have been in charge and have violated his trust.

Mr. Johnstone.—If it is objected to I won't ask it.

Q. Do you know where the prisoner was during the time of the rebellion? A. He was at Duck Lake.

Q. Was he living at Mitchell's or living at home? A. He was there at Mitchell's.

By Mr. Scott:

Q. Where does the witness live? A. At Fish Creek.

Q. How far from Duck Lake? A. About fifteen miles.

Q. Then he knows which house is Mitchell's dwelling-house, does he; he knew that before? A. Yes.

Q. What was he doing at Duck Lake on that day, where had he come from? A. They were coming from Carlton.

Q. How long did he stay at Duck Lake? A. He says he did not stay.

Q. Ask him if he saw any prisoners there, did he see William Tomkins there that day? A. Yes, he saw Billy Tomkins.

Q. Did he leave Duck Lake before or after Billy Tomkins? A. He seen him on the road there.

Q. Did he remain at Duck Lake when Billy Tomkins left? A. He went back to Carlton again.

Q. Who did? A. Himself, the witness.

Q. At whose place was Burston, the prisoner, working, at this sleigh? A. Near the road.

Q. At whose place was it? Was it at anybody's place? A. The road right close to Mitchell's house.

Q. Then he was working at this sleigh when this fire started? A. Yes.

Court.—If there has been no change in the houses within the last few years, the house stands within fifty yards of this road.

By Mr. Scott:

Q. Was that near the store that he was working at the sleigh? A. He says it is about 100 yards from the store—from Mitchell's store.

Q. Then it was nearer the store than it was to the house? A. He says it was nearer to the house.

Q. Which building was set on fire, was started to burn first? A. The telegraph office.

Q. Which was the second building to burn? A. He could not tell, afterwards they were all on fire when he saw the other houses.

Q. How many other houses were burnt? A. About four houses.

Q. How long was it after the telegraph office started to burn that the others started to burn? A. Four or five minutes after.

Q. Then do I understand you to say that the prisoner was working when these fires commenced? A. He says he seen him on the road all the time. He says while he was there he could not have went without seeing the prisoner go to the fire.

Q. Then he, the prisoner, did not go near the fire at all? A. The prisoner got near to the house after the fire, because he seen him working at the sleigh all the time till the flames came out of the roof.

Q. Was there anything in the house at the time the witness went to the fires? A. Nothing in the house, hardly.

Q. Was there anything in the store? A. Nothing.

By Mr. Johnstone :

Q. Do you know what became of these things in the store and the house? A. He says Riel's men had taken everything.

Q. Had the prisoner anything to do with the taking of them? A. He does not know, he could not say.

By Mr. Scott :

Q. Ask him how he knows that Riel's men took everything? A. He seen Riel's men there.

Q. But did he see them taking everything out of the store? A. He says he seen Riel's men taking something there in the store.

By the Court :

Q. I want to see if I understand as to the distances? A. Burston was working in the road, at the gate.

JEROME LEDEAU, sworn :

Examined by Mr. Johnstone :

(Through Interpreter, in French.)

Q. Ask him where he lives? A. I live at Beauprey's farm, a mile and a-half from Duck Lake.

Q. Ask him if he remembers the day on which Duck Lake was burnt? A. Yes.

Q. Last spring? A. Yes.

Q. Did he see Burston on that day? A. Yes.

Q. What was he doing? A. He was working at the sleigh.

Q. What sleigh? A. His own bob sleigh.

Q. Did he see these buildings on fire? A. He seen one, the telegraph office.

Q. How far is the telegraph office from Mitchell's house? A. About thirty feet.

Q. How far away was Burston off with the sleigh? A. He says he was about 100 feet from where he first saw Burston.

Q. How long was he there with Burston? A. He says he was there about a couple of minutes, and he left him.

Q. Was he at Duck Lake all that day during the burnings? A. No, he says when he left Burston there, he only stopped a couple of minutes with him, and he says he went right on.

Q. Did he see any smoke coming out of Mitchell's house? A. No, he only saw the little office there.

Q. Then he did not see Mitchell's house burning at all? A. No, he did not see it.

Q. Was that all he saw of the prisoner on that day? A. That is all.

Q. Did he see any men around there at the time of the fire? A. A good many people.

Q. Were there any of them at Mitchell's house at the time the telegraph office was being burnt? A. They were all over there.

Q. Did he see Fagnant? A. He did not see him.

Q. Did he see him at Mitchell's house? A. No.

Q. Did he see him at all that day? A. He says he did not see him, only the third day after.

Q. He did not see him that day? A. No.

Q. Does he know that these buildings were set on fire? A. He says he heard afterwards the houses were all burnt.

Q. Did he know how the telegraph office got on fire? A. He says he don't know how they started. When he looked he saw the flames going through the roof.

Q. Did he go up near the building at all to see what was the cause of it? A. No.

Q. He did not go near the building to see what was the cause of it? A. No.

Q. Did he enquire as to it? A. No, he did not.

By Mr. Scott :

Q. How long was he there after the fire commenced? A. He says he came that morning looking for a bob sleigh for Beauprey, and he says he was around there when he did not see the bob sleigh, and he went up to the well and he stood there, and all of a sudden he saw the fire.

Q. How long did he remain there after the fire started? A. He left immediately—shortly after.

Q. Was the building burnt down before he left? A. No, he only saw the flame going through the roof, that was all.

PETER LEVALLÉE, sworn:—

Examined by Mr. Johnstone :

(Through interpreter, in French.)

Q. You live at Duck Lake? A. Yes. Not exactly at Duck Lake, but two miles on this side of Duck Lake.

Q. Is that near where Burston lives? A. He lives in the same house.

Q. Does he remember the fight at Duck Lake? A. Yes.

Q. Does he know where the prisoner was on that day? A. Yes.

Q. Where? A. He was in the store—Mitchell's store.

Q. What was he doing there? A. He was working there.

Q. What was he doing? A. He says he could not tell exactly what he was there for; he was always working there anyway. He don't know exactly what situation he had.

Q. Was he working for Mitchell, does he know? A. For Mitchell—yes.

Q. Employed by Mitchell? A. Employed by Mitchell.

Q. Was he, the witness, there when the rebels came in from the fight? A. Yes, the prisoner was at the store.

Q. Was he, the witness, there when the rebels came back from the fight? A. He says he seen Burston in the store. He came, he says, with the rebels there.

Q. Did the rebels interfere with the building or the contents? A. He says he does not know about that.

Q. Was he at Duck Lake when the buildings were burnt down? A. No, he was not.

Q. Where was the prisoner during the time of the rebellion; does he know? A. He was in his own house—his own (Burston's) house.

Q. Had he anything to do with the fight at Duck Lake on the 26th March? A. No.

By Mr. Scott :

Q. What relation is he to the prisoner? A. He is his uncle.

Q. How does he know the prisoner was at his own house during all this time; was he, the witness, there too? A. He was living with him.

Q. I understood him to say that he came over with the rebels from Duck Lake? A. Yes, he said that he was coming with the rebels to the store.

Q. The witness was? A. Yes.

Q. How long did he remain with the rebels? A. He says he was quite awhile with them.

Q. At Batoche? A. Yes.

Q. Well, he does not know whether the prisoner was at home when he was at Batoche? A. He left him there, and he don't know, of course.

Q. When did he go back there; was it after the 12th May, after the day Batoche was taken? A. He wasn't there that day.

Q. How long before that had he left Batoche? A. He does not recollect.

Q. How many times did he see the prisoner between the time of the Duck Lake fight and the day that Batoche was taken? A. He says he seen him often. He was stopping with him in the same tent.

Q. Where? A. At the river.

Q. Then he was not at his own house; he says he was at his own house all the time? A. He says, in the first place, they were stopping together in the same house, and then he says he moved, with the prisoner, at the river. That is what he means. He says he was along with him all the time.

Q. Well, what was the prisoner living in the tent at the river for? A. He says he had to go there. He was taken there by Riel; forced to go up there, at the river.

Q. When was he forced there? A. He says he was forced right along.

Q. I want to know when force was first used? A. He does not know; he does not recollect what day.

Q. Did he see any force used? A. He says Riel used to send word to the people.

Q. I want to know if he heard Riel sending this word? A. No.

Q. Then he does not know that any force was used except what he had heard? A. No, only what he has heard.

IGNACE POITRAS SWORN:—

Examined by Mr. Johnstone:

(Interpreted in Cree.)

Q. Were you at Duck Lake about the 26th March? A. Yes, he was there.

Q. Whereabouts was he on the day of the fight? A. At the houses there in Duck Lake.

Q. Did he see Burston that day? A. Yes, he seen Burston there.

Q. What was he doing? A. He says he don't know what he was doing. He says he was going out of the house and coming in the house, and backwards and forwards.

Q. Had Burston anything to do with the fight? A. Well, he said he did not see him fighting that day. He says he did not see him doing anything. He says he was there with him all the time at the houses. He seen him there all day. He was not at the fight that day, sure.

Q. Did he see the buildings burning? A. No, he did not.

Q. Did he see Burston have a gun that day? A. No.

By Mr. Scott:

Q. He did not see the fire, I think he said? A. He did not see the fire.

JOHN TOMKINS SWORN:—

Examined by Mr. Johnstone:

Q. Do you know the prisoner? A. I do.

By the Court:

Q. You are Indian agent or Indian instructor? A. Indian instructor.

By Mr. Johnstone:

Q. How long have you known him? A. I have known him, I guess, five years—four or five.

Q. Do you remember the commencement of the troubles in the North-West or the Saskatchewan? A. Yes.

Q. Did you see Burston about this time? A. I did.

Q. Where? A. At his own house.

Q. Now, tell us where his house is as near as you can; how far from Duck Lake? A. Well, I should say it is about two miles, or in that neighborhood.

Q. Does he live near you or do you live near him? A. He lives within half a mile of where I did live at that time.

Q. Now, you say you saw him at his own house; was this before or after the Duck Lake fight? A. Before the Duck Lake fight.

Q. How long? A. Well, I guess it must have been about seven days or six days, in that neighborhood.

Q. Had you heard anything of the trouble at this time? A. No.

Q. When did you hear? A. I heard it from him that morning.

Q. What did he say about it? A. Well, I was going to Batoche—in fact I was going across the river and on to another reserve, and I had to go through Batoche to get there, and the road leading from my place to Batoche went by his house, and I went to his house and stopped and called in to see him, and he asked me where I was going, and I told him I was going to Batoche, and he says, you had better not go. I says why? Why, he says, didn't you hear the news? No, I said. Well, he says, the half-breeds have ris' out, and they have taken Batoche and all the stores and have taken some other places. He mentioned, I think Saskatoon. I think that was the one, and he says if you go down there, they will very likely take you. So, of course, I did not go down. This, if I remember aright, was the day after they rose. This, I think, was on the 19th, in the morning, if I remember aright. I would not be sure, but I know it was the day after they rose. My son was a prisoner at the time, and I did not know it till my nephew told me.

Q. Was that the last you saw of Burston until after the rebellion? A. Well, I think it was, I don't know exactly whether I saw him after that or not.

Q. Could you give us the exact words that he used that day? A. Well, that is about the exact words that he used, so far as my memory serves me.

Q. Did he say the word "half-breeds"; did he use the word "half-breeds"? A. I think so. He also told me to keep my boys at home, for fear if they would go out on the roads or around they might be arrested, they might be taken.

By Mr. Scott:

Q. Did he say anything as to how he had got this news; how he had heard it about the uprising? A. He spoke something about somebody being there, a day or two before that, to his place. I can't remember the exact words though.

Q. A day or two before the rising? A. No—

Q. The rising only took place on the day before? A. He said, if I remember aright, that there was some messengers going all around the country, notifying the people to join the headquarter party at Batoche.

Q. And it was from one of the messengers that he had heard the news, did you understand that? A. I cannot say who he got the news from.

Q. He did not tell who he got the news from? A. No.

Q. But he appeared to be pretty well posted as to what had been done? A. Yes, I took it for granted that he knew all that was going on.

Q. Did you lose any stuff? A. I did.

Q. What kind of stuff; I suppose your place was sacked? A. I lost everything that was in my place.

Q. The place was sacked? A. Sacked.

Q. And burnt? A. No, not burnt; but there was nothing left in it, only some few bushels of potatoes in the cellar, and some wheat in the granary.

Q. Did you find any of your stuff anywhere about? A. I did,

Q. Among your neighbors? A. Yes.

Q. Did you find any in the prisoner's house, or about his premises? A. Yes, there was some there. There was some property that I saw there belonging to myself.

Q. What was it? A. He had some boards belonging to me, and he had a set of ox harness belonging to the Indian Department, and he had a stove belonging to the Indian Department.

Q. Where had these been taken from; where were they at the time of the rebellion? A. They were taken from the Government farm where I lived, but he told me that he took those things for safety. The stove—another man had got it—and when the row was over, he brought it back to my house, and Magnus told me he sent over when he heard it, and took it to his place, that was before I got up from Prince Albert.

Q. Did he say anything to you about your boards? A. Yes, he told me he had them there.

Q. Were there anything there that he did not say anything about? A. He did not say anything about the harness.

Q. He did not say anything about having the harness there? A. No.

Q. How did you happen to discover that it was there? A. Well, the first day I went there, I saw the harness on his oxen, and I know them from our stamp; but I did not mention anything about it, because I was not prepared that day to take the harness, and I had confidence when I would come back from Prince Albert the second time, that he would still have them, and I would get them, and, meantime, the police took them from him.

By Mr. Johnstone:

Q. Do you know that your son instructed him to take care of any of your stuff? A. I sent word to him, by my son, to take the Government cow and keep her at his place if he could.

Q. Which son was this that you sent word to? A. My second son, but I don't think that he ever got that word. I think the cow was given to another man, or the other man went and took her—his son-in-law, just the same.

Q. Had you any conversation with the prisoner as to the stuff on the farm at the time that he told you you had better go away? A. No, I don't remember that I had. No, I had no conversation with regard to the stuff then, because I thought it would never come to anything at all.

Q. You say the prisoner told you that he had this stuff for you? A. He did tell me.

Q. Did you believe him that he intended to keep it for you? A. Well, I believed him in this way—that if the half-breeds won the country he was so far ahead, and that if they did not when I came back he would give it to me.

Q. And if you never came back you would never want it, and if you did come back you could get it? A. Yes, that is just the way I looked at it.

JOSEPH ARCAD, sworn:—

(Through interpreter, in French.)

Examined by Mr. Johnstone:

Q. He lives near Duck Lake? A. Yes.

Q. Does he know Burston? A. Yes.

Q. Where was he at the time of the Duck Lake fight? A. At Duck Lake.

Q. Do you know why Burston was at Duck Lake? A. He was there at the houses at Duck Lake.

Q. Were you present when the houses were destroyed by fire? A. No, he says he was not there; he was not near to it.

Q. Had Burston anything to do with, or was he favorable to, the rebellion? A. He says he knowed he was against the rebellion all along.

Q. How does he know that? A. Because he was talking with him and had a conversation with him.

Q. Does he know why he was at Duck Lake, why he countenanced, or why he was there, apparently? A. He was in charge of the fort, the Duck Lake store.

Q. Does he know if Burston had a gun? A. He never seen him with a gun.

MOISE PARENTEAU, sworn:—

(Through interpreter, in French.)

Examined by Mr. Johnstone:

Q. Does he know Burston? A. Yes.

Q. Does he remember the Duck Lake fight? A. Yes.

Q. Did he see the prisoner at that time? A. Yes.

Q. Was he armed? A. No.

Q. Was he at the fight? A. No.

By Mr. Scott:

Q. Was he with him all day? A. No, he was not there with him all day.

Mr. Johnstone.—That is the defence, your Honor, but there is a question I want to raise about the information. It is immaterial when the objection is taken. I submit the information is insufficient, as it does not give the words of the statute; it does not use the word "feloniously," and the want of the word "feloniously" in an information for larceny is held to be fatal. The same rule should govern in informations for treason. It uses the word subsequently, but it does not give the words when giving the offence. It says: "within Canada compass, imagine," instead of "feloniously compass, imagine," as it should be. It says afterwards: "the said felonious compassing." It may be a clerical error in leaving it out.

Judgment reserved, and prisoner remanded till Monday next, 12th inst., 10 a.m., when judgment was given, discharging prisoner.

JAS. T. PARKES, *Official Stenographer.*

QUEEN vs. PARENTEAU AND TWENTY-FIVE OTHERS.

CANADA }
North-West Territories. }

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario, in the Dominion of Canada, chief of police, taken the fourth day of August, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:

That Pierre Parenteau, Pierre Gariepie, Pierre Henry, Emmanuel Champagne, Maxime Lepine, Albert Monkman, Joseph Delorme, Phillippe Gariepie, Joseph Arcand, François Tourond, Daniel Parenteau, André Nolin, Alexandre Cayen, alias Kee-tee-way-how, Elzéar Swain, Frederick Fiddler, Patrice Tourond, Jim Short, Alexander Fisher, Baptiste Vandal, Ignace Poitras, the elder, Ignace Poitras, the younger, Pierre Vandal, Joseph Pilon, Baptiste Rocheleau, Moïse Parenteau, Maxime Dubois, not regarding the duty of their allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear towards our said Lady the Queen, on the twenty-sixth day of March, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that day, together with divers other evil-disposed persons to the said Alexander David Stewart unknown, feloniously and wickedly did compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within Canada, in order, by force and constraint, to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention, then feloniously and wick-

edly did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say :—

In order to fulfil, perfect and bring to effect their felonious compassing, imagination, invention, device and intention aforesaid, to wit, on the twenty-sixth day of March, in the year aforesaid, and on divers other days and times, as well before as after that day, at and near the locality called Batoche, in the North-West Territories of Canada, aforesaid, feloniously and wickedly, did conspire, consult, confederate, assemble and meet together, with divers other evil-disposed persons to the said Alexander David Stewart unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

A. D. STEWART.

Sworn before me the day and year first above mentioned, at the town of Regina, in the North-West Territories of Canada.

HUGH RICHARDSON,

A Stipendiary Magistrate in and for the North-West Territories of Canada.

And take notice that you have the option of being tried before a stipendiary magistrate and a justice of the peace, with the intervention of a jury of six, or before a stipendiary magistrate in a summary way without the intervention of a jury. Which do you elect?

And the said persons above charged, and each of them, thereupon elected to be tried before the stipendiary magistrate in a summary way without the intervention of a jury, in pursuance of sub-section 5 of section 76 of the Act 43 Victoria, chapter 25: "The North-West Territories Act, 1880," as amended by 48-49 Victoria, chapter 51, section 5.

TUESDAY, 4th August, 1885.

Mr. Justice Richardson presiding.

Court opened and it was announced that Mr. Dixie Watson is appointed clerk of the court, and Mr. Maclean and the other reporters who were at the last trial, official reporters to the court. Mr. F. R. Marceau to act as French interpreter, Mr. Peter Hourie as Cree interpreter. These two gentlemen are now sworn as interpreters.

Mr. Justice Richardson reads the information and notice appended thereto, to the prisoners, and such information and notice are interpreted in French and Cree during the reading of the same to the prisoners.

All the prisoners are now asked whether they will have a trial by a jury of six, or a summary trial before a stipendiary magistrate alone, and all answer summary trial.

Upon all the prisoners being asked whether they are "guilty" or "not guilty," they all plead "guilty" to the charge contained in the information read to them.

Clerk.—Hearken to your plea as the court records it; you say you are guilty of the felony with which you stand charged.

Mr. Robinson.—The Crown do not propose to move the court for sentence to be passed upon these prisoners at this moment. They thought it better that your Honor should have an opportunity of being informed as to the circumstances of each case, each particular case, and the relative guilt or innocence of each person, so that we will be able to classify and apportion the sentences accordingly.

I may say the question whether or not the Crown are justified themselves in accepting the pleas which the prisoners have recorded in these cases, has occasioned us a great deal of anxious consideration and doubt. From the evidence in our possession we believe that the offence of treason would have been brought home to all those persons, and with regard to those who are members of what was called the council, and who took a more or less active part beyond that of the mere rank and

file in this rebellion, we have great difficulty in coming to the conclusion that we were right in not prosecuting for a higher offence, but in accepting this plea.

I think in pleading guilty, as they have done, that they acknowledge their guilt, and they express penitence for the offence of which they have been guilty, and they have done whatever lay in their power, and taken every possible course to recommend themselves to the clemency of the Crown, if it should hereafter be thought proper to carry it to the executive in mitigation of their sentence; and I may add that in coming to this conclusion we have been very much assisted indeed by the exertions of Father André acting, as we understand, under the directions of the Archbishop, in giving us every possible information about each of these prisoners, which he has derived from his long residence among them, and acquaintance with them, and is interested very earnestly indeed in them—we are indebted to him very much for that information. It has been of great use to us in enabling us to come to the conclusion at which we have arrived.

I can only add that it is a subject of very deep regret that these prisoners instead of listening to the good advice they received from him were led away by evil counsels as I trust they now see. There are four of these prisoners, with regard to whom the Crown propose to take no proceedings, Elzéar Swain, Frederick Fidler, André Nolin and Daniel Parenteau. With regard to these prisoners, there are so many extenuating circumstances in their cases, although they were undoubtedly implicated in this rebellion, it is so questionable whether they acted entirely of their own free will, that counsel for the Crown thought it right not to ask for sentence upon them at all, but to discharge them upon their own recognizance, to appear should they be called upon hereafter at any time.

With your Honor's permission, my learned friend, Mr. Casgrain, will repeat in substance, in French, what I have said to these prisoners, because we wish them to understand, thoroughly, the course which has been taken, and my learned friend, Mr. MacIise, will also say a few words. The prisoners understand French.

(Mr. Casgrain accordingly speaks to the same effect in French.)

Mr. MacIise.—In rising to speak on behalf of these prisoners before you, I beg to ask your honor to remember the fact, that in your long residence in that country, and in your presidency over the parts of that country, I think not one of these prisoners here has ever appeared before you upon any criminal charge.

I had almost forgotten to say that with me, in the defence of these prisoners, appears Mr. Carey, of Winnipeg, and Mr. Benson, of Regina, and Mr. Pendergast, of Winnipeg. These gentlemen, with myself, have, after a great deal of consideration, foregone any chance of showing to the court in what circumstances these prisoners were placed at the time that these occurrences took place with which they are charged. We have done this because of the very great risk that a hostile course of pleading "not guilty" or not consenting to plead "guilty" to this charge would entail upon us.

Now, in speaking to these people about their circumstances, I am compelled to refer to the prisoner who has already been charged, whose case was so intimately connected with the others. I do so, because I cannot speak of the circumstances connected with their cases without referring to it.

Now, it is well known, your Honor, to all who have any knowledge of that country that these people are an honest—were up till last fall, an honest, law-abiding, church-going people. In the evidence which was given before your Honor a few days ago—

Mr. Justice Richardson.—Interrupting you one moment, is this with a view of regulating the sentences on their behalf, that you are now addressing me?

Mr. MacIise.—With the consent of the prosecution, yes, my Lord.

Mr. Justice Richardson.—It is assuming that I was about to pass sentence.

Mr. MacIise.—Yes. The allegiance of these people before 1870 was an allegiance to a law among themselves principally. They were buffalo hunters on the plains. They made their own laws, and it would be necessary to consider that when we come to the circumstances which follow, and that I ask your Honors to remember. Now, with regard to the grievances which they had and which have been

urged in extenuation of their offences, I have practically nothing to say. I am not here to make any sort of political capital for anybody, any person whomsoever. The fact, however, of a sort of non-committal course, or a course not answering, from some cause or other, the petitions of these people, having been adopted, gave the prisoner, who has already been tried, a standing room when he came amongst them. Now, with regard to his coming amongst them, it has been alleged against these people that they sent for him. It could be proved in evidence that Louis Riel met Nault here, in Manitoba, in 1883, that he arranged with him, that he and Gabriel Dumont should go about and incite the people to send for him. A subscription list was hurriedly gotten up, a few meetings were held before anybody in that country knew he was being sent for. He had been sent for. Now, with regard to the object of the people in bringing him here, and as stated by himself afterwards, the ostensible meaning of the message was to persuade Riel to come and advise them and assist them to obtain, in a constitutional manner, their rights. Now, from the first of the meetings held by Mr. Riel, his position towards them coming into a peaceful country was a repetition of the sentiment of peace—peace, peace, peace, and the other sentiment of union among the half-breeds. He also referred to his own claims against the Government, indefinitely at first. That was about the middle or 1st of July. During the month of August he held some conversations with the reverend fathers of that district, and he stated that his object in coming to the country was either money or revenge. It is a great pity that this could not have been given in evidence. I regret exceedingly that this matter did not come out on the other trial.

Now, your Honors, I may state I suppose that in the former rebellion nothing was said—there was no religious aspect in the movement at all, that after this meeting with the priests, after he found he couldn't get them with him, and after he had threatened to trample them under his feet, then, and not till then, began his religious movement. He then began to show the letter from Bishop Bourget, which is referred to. He then began to go about from house to house praying, and then he began to make them believe that he was a prophet. He interpreted the simple letter of Bishop Bourget, a mere friendly letter, as a letter giving him a divine mission.

Now, about the month of December, Father André had heard, as it is given in evidence, certain matters with regard to Mr. Riel, that he had been passing tobacco among the Crees and Sioux. That is not in evidence, but he sent for Mr. Riel, and asked him what he wanted. He told him he should leave the country, that he was a firebrand among the people. Mr. Riel stated that he was willing to leave the country for \$2,000. It is in evidence that Father André said to him, but you have stirred up the people, and how will they be after you leave? It is in evidence now that he stated with some qualification that he himself was the half-breed question.

Now, during this time he had made the people believe that compound interest to which they should be entitled, as he argued it, on the amount they should have received in 1870, would make them independently rich, and also his own claim would make him independently rich; that it would have increased from \$35,000 to \$150,000. He also, shortly after this, began making them believe that he was persecuted by the police, and thereby secured their sympathy. He did this by referring to one or two very slight circumstances which might mean anything. Now, it is a matter well known among all who know these half-breed people that they always trust and follow the educated amongst them. The prisoner, who has already been tried, knowing this—and I may say that I never saw a man in my life who so thoroughly appreciated their character and who was so much master of his own fellow people. Well, when he took hold of this course, in the religious movement, he knew that he was compelled to take it before he could accomplish anything with them. He knew that they had been a religious people, that they had strictly attended to all the ordinances of the church, and he knew that he could not have complete control of them unless he took this course. In the opinion of counsel for these prisoners, it is the fact that this religious movement was entirely a matter of design.

Now, evidence is already, in the other trial, with regard to his sending messengers out amongst the people to tell them to ask him to stay—and further, on a

certain matter, certain serious matters occurred by which these people were brought in arms. That is also a matter which I regret was not brought in evidence. The feast of St. Joseph is a very important feast with the French half-breeds. St. Joseph is the patron saint of the French half-breeds. The baptism was set for that day for a person named Jackson. The French half-breeds always make that festival, which occurred last year, I think, the 19th March, always make that a very important festival. The rank and file of the people were requested simply to bring their guns and fire a volley. That was the first of it. On the 17th March Mr. Riel went to the upper settlement, or southern settlement, south of Batoche. Gabriel Dumont went to the north of Batoche. All the people were told to gather at Batoche, to go from there to the church of St. Laurent, and there attend the baptism. They were to take their guns with them and fire a volley. They were, however, to remain at Batoche until all had gathered together. They met at Batoche. The rumor was there circulated that 500 police were just coming down upon them. They so believed their leaders, they had so believed their leader that in the way that matter came, the way that matter was understood by them, and the way he explained it to them; and that was simply and solely the way these people came together armed. Captains were appointed at once to send out to bring all the rest of the people that hadn't come to the little church at St. Laurent at all. The rebellion was started in that way. Gabriel Dumont called out from among the people "Are you willing that so-and-so should be a councillor?" He calls out the names of the first men there, Pierre Parenteau, and in his absence, Emmanuel Champagne, and the first thing was the trial of Nolin and another two of their own friends. Both Riel and Dumont were urging killing without trial. When these men refused to act in order to save their own friends, they committed what was called an act of high treason. What crime was there in the hearts of those people at that time gathered together in that way? What crime of intention, your Honors? They were told further that not only were there these police coming, but there were 100 police coming from Prince Albert who were to tear down the church and prevent the baptism.

We have pleaded "guilty," your Honors, to these charges. We say nothing against that whatever. We say that these men have been advised, have considered rather that it was their best course to plead guilty to this charge, and throw themselves on the mercy of the Crown, but at the same time I could not see my way clear, and the other counsel could not see their way clear, not to present before the court all that we were allowed in any way to do. Now, some other untoward circumstances occurred. A proclamation was issued. The first man, notable among the half-breeds, went to Prince Albert and was arrested, and when the news of this reached St. Laurent, a good many who would have left and fled to Carlton or Prince Albert were deterred. The news when it arrived there was, that these men were being tortured with all kinds of torture. The prisoner who has already been tried did not fail to use that circumstance to his utmost benefit. He, right to the last, right within a few days before the taking of Batoche, referred to the treatment Nolin had received and told them that he was either dead or the next thing to it, and that they would all be treated in the same manner, that unmentionable atrocities would be perpetrated upon them, and there never was, your Honors, such a surprised lot of people in the world as when their wounded were taken to Saskatoon to the Government hospital there. They thought those wounded, as well as themselves, would not receive any fair treatment whatever. Now, as to the circumstances that occurred during the rebellion, when Mr. Riel sent for Father Fourmond, and spoke to Father Fourmond with regard to his sending for him, Father Fourmond said I have nothing to do with your rebellion. Mr. Riel turned about and addressed all the people and stated that the matter was not a rebellion at all. He had made those people believe—he did his best, rather, to make them believe they had taken a course which they had been driven into.

Now, with regard to the circumstances of each case, we thoroughly understand that having thrown ourselves on the mercy of the Crown, that we have the privilege,

in fact it is our duty, as counsel for the defence, to do what we can to place before your Honors what your Honors will accept in the matter of evidence, and as the counsel for the Crown has not pressed for sentence in those cases, we will, as soon as possible, take what steps we consider best. We propose to get evidence from the Crown witnesses and from what other credible witnesses there are here, as to what circumstances each person was in and how he came to take part in this matter. We hope your Honors will give as much weight as possible, as much weight as you consider the evidence entitled to, and you will give each of these men as light a sentence as possible and as compatible with public justice.

Mr. Carey.—Might I ask your Honors the time when these sentences will be given?

Mr. Justice Richardson.—Suppose the Crown moved for sentence to-day, I could not proceed—I should not feel justified in proceeding without making some little enquiry.

Mr. Carey.—I am most anxious that the court should take time, because I think we have everything to gain by it. As I understand, your Honors will allow us to put in evidence in mitigation. I understood that from Mr. MacIse —

Mr. Justice Richardson.—I have said nothing, nor have I indicated anything which would lead Mr. MacIse to suppose anything of that kind.

Mr. Carey.—We took your Honor's silence to be favorable.

Mr. Osler.—I might say that we do not desire to move for sentence until all the cases of the same class are disposed of. There are others not disposed of, and we think that probably towards the end of next week, Friday or Saturday of next week, the 14th or 15th, we will be ready. There are cases where the people have not made the offers that your clients have. We have to give ten days' notice of trial to those parties for treason, and we don't desire to dispose of one without disposing of all.

Mr. Carey.—We understood this was a delivery.

Mr. Osler.—So it is as to these men.

Mr. Carey.—We understood there were no more prisoners.

Mr. Osler.—There are two others that have not done as these have done. There are seven half-breeds who are not in this plea.

Mr. Carey.—Of course we understand we will be allowed to put in any evidence in mitigation. The course is not unusual.

Mr. Justice Richardson.—I shall be very glad to consider anything I can legitimately. If it is legitimate, I will follow it, if the authorities go the other way, I will not.

Mr. Osler.—We concede it is the ordinary practice to bring such facts before the court in mitigation of sentence as are thought proper.

Mr. Carey.—I promised to see to the fate of these men to the last, and although my learned friends, Mr. MacIse and Mr. Benson, have been attending to these men's interests for some time, and done a great deal of service, we having been sent here specially to aid and assist them, we don't feel justified in leaving them until we see what their fate is.

Mr. Justice Richardson.—If this has to be delayed I will see that you have notice so as to be here.

Mr. Osler.—We shall say Friday week, unless you know to the contrary.

Mr. Justice Richardson.—Did I understand, Mr. Osler, that the four you mentioned could be discharged at once?

Mr. Robinson.—Yes.

The four prisoners mentioned heretofore as being discharged on their own recognizances, here enter into recognizances of \$400 each, to appear when called upon for sentence.

FRIDAY, 14th August, 1886.

Clerk opens the court at 4.45 p.m.

Mr. Robinson.—I move for the judgment of the court upon the following prisoners convicted of felony and treason-felony:—Joseph Arcand, Emmanuel Champagne, Alexander Cayen, Joseph Delorme, Maxime Dubois, Alexander Fisher, Philippe

Gariepie, Pierre Gariepie, Pierre Henry, Maxime Lepine, Albert Monkman, Moise Ouellette, Philip Garnot, Alexis Labombarde, Ignace Poitras, sen., Ignace Poitras, jun., Pierre Parenteau, Moise Parenteau, Joseph Pilon, Baptiste Rocheleau, Jim Short, François Tourond, Patrice Tourond, Baptiste Vandal, Pierre Vandal.

(Joseph Delorme says he does not understand English or Cree. All the others understand Cree.)

Mr. Peter Hourie is sworn as interpreter in Cree.

Mr. Justice Richardson.—(Here repeats the names of the prisoners as above.) You twenty-five men stand convicted of a very serious offence—(interpreted to the prisoners in Cree)—the offence of having taken up arms against the Government of the country, which is termed treason-felony. You have all been convicted upon your own confession of guilt, freely made when you had the opportunity of demanding a trial by jury, when the facts upon which you were charged would have been brought out before the court.

Since your trials and convictions, enquiries have been made. Now, what have you or any of you to say why I should not pass sentence upon you?

One prisoner says it is hard when we were misled.

Mr. Clarke (for the prisoners).—If your Lordships will permit me to say something, not why sentence should not be passed, but why the sentence that is about to be passed should be made as merciful as possible, I have a few words to say on behalf of these prisoners—these unfortunate men.

That the soil of Canada has been bathed in the blood of some of her best sons, there is no doubt; that citizens of Canada can be found from one end of the country to the other, who does not deeply regret it cannot be doubted; but the blood has been spilled, the new-made graves are still there, the grass has not begun to grow over them, the hearts that were lacerated are still bleeding, and at such a time as this it is hard indeed if the poor, miserable, unprotected creatures do not find even one friend to say a word for them. Be assured, my Lords, that in speaking for them, I speak not as one who sympathizes with the rebellion, under any circumstances, except when freemen stand up to defend their rights against those who dare oppress them (hear, hear); but in this, my Lords, think, I beg of you, what position these unfortunate men held. They are the creatures of circumstances, ignorant and unsophisticated as the very prairies over which they have roamed since their earliest days, some of them so long that they are tottering on the brink of the grave, a grave that must ere long close over them; still we find them here to-day to be sentenced for a crime little less than that of death.

Now, let us consider in a few words what led these men to the position they hold to-day. Unfortunately, the history of what led them here has its inception, not on the Saskatchewan, but on the banks of the Red River, and we might go probably a little further, and say that some of the causes that brought them here were not to be found on the banks of the Red River or of the Saskatchewan, but that you had to go and find them on the banks of the Ottawa River, and from thence they were transported here. I don't intend, it is far from my intention, to make anything that can be called a political address, I scorn to do it at such a time, and under such circumstances as these; but in stating that there were faults committed, that there was negligence on the part of those who had the public interests in their control, there could be no doubt, and I am not saying too much. Fifteen years have passed, fifteen long years, and men who were in the prime of life in '70, are now grey and old, and stale claims that were recognized by Her Majesty's advisers at that period, they are still—were at least up to the time of this unfortunate rebellion—unsettled. Under those circumstances, it was not difficult to find a man who had come forward in '70, to come forward again. The natural leaders of these men neglected them. Those who should have taught them what their duties were, these men were not found there. They were left entirely to the control of the poor priests who had been spending their lives in their midst, sacrificing themselves for the benefit and the advantage of the human race, in this North-West country. They alone were their directors, and when they required any assistance elsewhere,

they had no representatives in Parliament, nobody to speak for them, nobody to advance their interests, nobody to lay their claims before the Throne that they might be heard—their voices heard—when asking those rights that were secured to them by an Act of Parliament, and when, during the last Session of the Parliament of Canada, when the blue-book of the Interior Department is produced, when we find it advanced and stated, as a solemn fact to go out to the world, that a Mr. Pearce had been appointed, that he had gone carefully through every country where this rebellion has raged since, and that he had enquired into every particular case and every claim of the old settlers, with the result that all these claims have been finally and satisfactorily settled, I think it is time to understand that however the Government and the Parliament may have been deceived, that these people could not be deceived. It turned out afterwards, before the ink was scarcely dry with which that report was printed, a contradiction went back, I grieve heartily to say it, in the life-blood of those who were dying at the point of the rifle, of the men who considered themselves outraged, and were led on to that opinion by a crafty, cunning, conscienceless scoundrel whom we all hope—I don't think there is one in Canada probably, who, if they were to speak the truth—whom we all hope to see punished for the crime that he has committed, and to suffer the extreme penalty of the law. This man then finds his opportunity, he was supposed to be the natural leader of these people, and they had no other; they had no representative in Parliament, they had no Local Legislature of their own, they had to appeal to him whom they supposed could be of assistance to them, and, unfortunately for themselves, they went to Montana to invite him to come from Montana, and they brought Louis Riel here. Louis Riel very nearly succeeded in bringing them to the gallows; but had there been no complaints; had there been no grievances, there would have been no place for Louis Riel in this country. Had there been no grievances on the part of these half-breeds, had they not had claims that were entitled to be recognized, Louis Riel would have been left in Montana, or to remain in prison, where he had been thrown for creating a disturbance among half-breeds, inducing them, by false oaths; trying to make them, by false oaths, stuff a ballot box. He would have been left there to this day. Unfortunately, on account of those very grievances, Louis Riel was brought by these people, inconsiderately perhaps, but they believed they could confide in that man; they had no idea he was going to lead them on to rebellion. What they required was peaceful agitation by which to secure the attention of Parliament and the authorities, and by that means to secure the granting of their rights. This peaceful agitation went on for some time. Public meetings were called, and at these public meetings these grievances were ventilated. Well, will anybody tell me it is a crime against the law to carry on a peaceful agitation? Will anybody tell me that when they wrote that letter to Montana, that there was anything illegal in it? Will anybody pretend that when even they got together, and by their oath bound themselves to stick to one another so as to obtain by peaceful means the recognition and granting of rights, that they were guilty of any crime against the law? I hurl the insinuation back in the face of those who make it, and I tell them that it is the birthright of every British subject to agitate in public meetings, to petition to the Crown and to obtain the rights that he is entitled to if he possibly can, by those constitutional means. I have no hesitation in saying that up to that time these people were acting in a legal and a constitutional manner, and if they fell away from those constitutional means that they had been employing, we will see who was to blame for it.

Now, your lordships will understand perfectly that in dealing with men like these, we are not dealing with people who have received an education. We are not dealing with cultivated intellect. We are dealing with wild men of the territories, so to speak, those who know what they are informed by their leaders who were in the habit from early days, when their forefathers came to this country, to follow a leader on the territories, to follow a leader in the buffalo hunt, to follow a leader wherever they went. They went in parties, and each party had a leader, and they looked up to that leader as their hope and as their director. In the latter years they followed leaders that were appointed to them by the various churches and missions. They had

the Episcopal leader and the Catholic leader; they had the Presbyterian leader and the Methodist leader, and they looked up to those leaders and they followed them with the utmost simplicity, and in the utmost confidence that they could not do wrong so long as these men taught them that they were doing right; but there came an evil spirit among them, and when Louis Riel discovered that he could not win the ministers over to his side, that he could not win over to his objects the ministers of the gospel and the priests of the country, he then established a new religion of his own.

My Lords, we have placed before you in as comprehensive a manner as possible, and as fully as we are enabled to do under the circumstances, we have placed before you the history of that new religion by which the minds and the souls of these unfortunate men are grasped. We have placed before you depositions of such people as Charles Nolin, the deposition of Father André and Father Cochin, and we have also the depositions of various others, showing exactly what this man pretended. He announced himself a prophet, as being a second Moses sent to redeem his people from the worse than Egyptian bondage. He prayed for them in the open air, extending his hands and his arms in the form of a cross, and sometimes looking towards heaven and shouting for assistance from the All Wise; and, at other times, he prostrated himself at his full length on his face on the ground and prayed with all the appearance of the utmost devotion. He told them of the visions that he had in the night. He told them of the visions he had from angels. He told them of conversations he had with the Holy Ghost, and he made them believe in fact, that he had a divine mission and that that divine mission was not only to save the half-breeds of North America, but that that mission was greater still, that when the whole world should be in a chaos of revolution and almost annihilation, that he was the man appointed by the Almighty, hundreds of years ago, as had been foretold, he said from reading a book, pretending to be the prophesies of a great Irish saint—Saint Bridget, of whom there are a great many living now-a-days I believe, that she had foretold 200 years ago that he, Louis Riel, being descended from St. Louis, that he was the man who was to save the world before the dissolution.

Now, it is hard to believe that men of sense, men who have arrived at years of discretion, that they could believe such nonsense, such twaddle. It is almost incredible that here, that these wise men from the North-West Territories could be made to believe the sophistry and the trickery of such a juggler as Louis Riel; but just let us look at where some men that were wiser than they have been led. Look across the line. Look into the United States. Go to the city of Utah; go where the missionaries of Joe Smith are sent from, to all over Europe, and see whole brigades, whole congregations of Christian men and women that they bring at their beck and nod on pretended revelations of saints and saint worship that they perform, and the atrocities that are performed there in the name of religion and in the name of God, and then say is it any wonder that these poor creatures could be misled as they have been? Go to England, to the middle of one of the grandest times of her advancement in science or in literature. Go there and find a whole crowd, thousands in number, following at the beck and nod of such an extraordinary creature as Jehovah Southcote, and wonder then how it is that these wise men of the territories could be misled by such a man as Louis Riel, one who had been adapted perfectly to become their leader.

No, my Lords, I think it is no wonder they were misled.

Is being misled a reason why they should not suffer for their crime? My Lords, I don't pretend it is, but I do pretend that so soon as you have the proof before you that you are satisfied that these men were led through their conscience, that they were led through their intellect, weak as it is, by the superior cunning of a man who had, no doubt, been nursing this idea for years, then you have the best possible reason for believing that they did not commit these crimes with any intention such as animates, as a general thing, those who are led into revolution and who will kill their fellow man for a selfish purpose.

My Lords, you have the evidence before you of that unfortunate widow, Mrs. Tourond, with her seven sons. If anything more extraordinary can possibly be con-

ceived, I should like to hear of it, for I have never read of anything more extraordinary. Seven as fine young men as could be found in British North America, either white or half-breed, peaceable, honest, sober, hard-working—this man Riel was determined, if possible, to get hold of them. He tried every means in his power. He felt they would not come to him or with him under any circumstances, and then the trickster had recourse to the conscience of their mother, and to her superstition. He goes there day after day. He prays with her, he prays for her. He enacts apparently all the conduct of a saint in the agony of prayer and of devotion, and then he comes to her day after day, and at last tells her, announces the fact that he had a grand vision of their being visited by the Holy Ghost and the Virgin Mary, and what did he say? Seven most brilliant stars of extraordinary brilliancy, he said. Said he, you are the proud mother of these seven stars, and they shine with a lustre and brilliancy to all future time. With their assistance, with the divine mission that I have to accomplish, they will assist us in carrying out this great reform; and the poor mother, led by her conscience, led by her superstition, begged and prayed of her sons to go forth and fight under the banner of heaven, as she supposed for the right. And to-day where is that mother? Where are those sons? The weeping widow, almost without cheer, now sits somewhere, probably under the shade of a tree, if she can find one on the banks of the Saskatchewan, within sight of the graves of two of her manly young sons, with the grave of a third still almost unfilled, who died at the shock of the death of his two brothers who were killed in the rifle pits at Batoche, a fourth who is a cripple for life, and the other two, my Lords, stand before you here awaiting your sentence, and in the name of everything that is human, in the name of every principle of right, if it is possible for you, I ask you, my Lords, to be merciful to that unfortunate mother, be merciful to the unfortunate sons and send them home to her as a consolation in her failing years.

Now, it was by such means as this that these unfortunate men were led on to do what they did. You have the proof, my Lords, before you, as well as we could place it, not having a trial. You have the proof that when these men, even those who were called the most bloodthirsty, the most dangerous, had they been fighting on the other side they would have been considered the bravest. It makes all the difference on what side you are fighting. If you are fighting on the side of law and order, you are a hero. If you are fighting on the side of those opposed to law and order, you are a ruffian and brigand.

Well, you have proof that even in times of the greatest excitement, at the time when it might be supposed that everything around them was colored in blood, you have the proof that the prisoners who were in their charge, the prisoners who were kept there by them, were treated with French courtesy as a general thing. They had the best that they themselves had to eat, and there were only one or two amongst the whole of those half-wild men who offered any indignity to those prisoners while they were in their charge. This, my Lords, should tell on their behalf, and I have no doubt that it will.

Now, with reference to the degrees of culpability; some of these men have certainly been more guilty than the others. Some of these men are more intelligent than the others. Some of them are so little removed from the Indians that in reality the Crown was as much bound to send them defenders as they were to send defenders to the Indians. I think, my Lords, that when you consider this, and consider that such an object of misery and passion as that creature yonder with the one eye, with his hair and face indicating one degree above an ordinary born idiot, that something like mercy, if not compassion, will be bestowed upon such creatures as that (Labombarde). Look at some of them tottering on the brink of the grave, some of them weak from their former exposure, weak from the weight of years, trembling there before you, not understanding a word that is said, left at the mercy of the court, not knowing even what they are charged with, the interpreter not being able to translate into their language the words of the law. They are here, and they stand in that woeful position—

Mr. Justice Richardson.—Did I understand you to say that these men did not understand what they were charged with?

Mr. Clarke.—My Lord, I state that they have no comprehensive understanding of the last words that your Lordship addressed to them. It is a well known fact that in the Cree language you cannot interpret such a word as treason-felony. Far be it from me to insinuate for one moment that anything like injustice would be done to these men here. I have too much confidence in the integrity of the judges and the justice of a British court to even insinuate a thing of the sort. All that I do want, and all that I stand here for, is to beg for mercy for these prisoners. They admit their crime. They can do no more, and at the same time that they admit their crime some of them have admitted a crime which they could not have been punished for, that they could not have been found guilty of.

You are aware that this proclamation was issued. It was issued by those in authority. The proclamation bears no date. It does not say if they come forward and present themselves voluntarily and surrender at Carlton or at Prince Albert that they will be protected. It does not say if they come forward before any particular day or after any particular day. The proclamation bears no date. It is in full force to-day, as full as the first day it was issued, whatever day that was, and with a confidence that has been inspired in their hearts by that kind of ample, fair and manly justice that has been done to them heretofore in the North-West Territories, they did come forward and by the advice of their priests they surrendered themselves, and at the same time two dozen or more of these men stand here to-day. But there is probably one dozen of them almost entirely innocent, whereas at least 40 or 50 of the worst men that took part in the whole rebellion are now at liberty around the banks of the river at Batoche and elsewhere, and have not been arrested at all. I took the liberty of explaining why it was that this group of men were arrested. One of the Crown witnesses handed a list of the leaders and the worst men in the rebellion to General Middleton. General Middleton was to cause the arrest of those men and have them brought as prisoners to Regina or whatever point ordered by the Government, but from the fact that he had so much to do, that his time was so occupied, that his mind was so pre-occupied, he lost that list of those who were to have been arrested and brought these, and the result was that when the steamer arrived it had to leave almost immediately, and he came to the conclusion along with this same Crown witness—and your Lordships have that evidence before you—that they would take a certain number of these people who had surrendered and bring them here, as the Crown might require evidence before they would be able to convict the leaders of the rebellion who were to be put on trial. This accounts for a number of these men being here to-day who should not have been here, and some of whom I expect, I trust, to hear your Lordships discharge without any sentence within a few minutes. For the others, those that have taken a part, I ask your Lordships to consider on their behalf and in their favor the good acts that they have performed. Let not the whole of their lives be blasted because they were guilty of one act which they should not have been guilty of. Let them have a fair chance. For that which they did in the interest of mercy and of manhood, let them have all the advantage that they ought to have as a recompense for doing that. Let that young Tourond—who, when Louis Riel ordered the prisoners to be taken and handed over to the Indians that they might be massacred before their eyes—let that manly young fellow, whose three brothers lie dead and who has one crippled for life, who came forward before Louis Riel and said: Before you kill one of these prisoners you must kill me—surely, my Lords, such an act as that you will not let be forgotten when it comes to the time to sentence that man for whatever he may have been guilty of against the law.

And the others; those who plead so hard for the Indians, those whose conduct may appear in a very dark light, that man Monkman, for instance, why should he not obtain all the consideration that can possibly be bestowed on his case, in his favor, when you consider how much he did do as well as how much he did not do. When you consider that but for him the English half-breeds would probably have joined into this rebellion or revolution, and that a great deal more bloodshed would

have been the consequence, and a great deal more expense and disaster to the country. It must be remembered that when he was sent there—you have the evidence—that while speaking to the English half-breeds he said, "I am sent to induce you to join in with Riel; now I advise you not to do anything of the sort; go home and have nothing to do with Louis Riel or with this revolution." You have proof before you of many other acts of kindness and many other manly acts performed by this man Monkman, and let it not be forgotten, my Lords, on his behalf, that the name of "Monkman" should be remembered with a good deal of gratitude if not with respect in this North-West Territory. At the darkest days of the revolution of 1870, when a man, who is now a Senator of the Dominion, when his life was trembling in the balance, it was the father of this boy who risked his life, and risked it a dozen times over, so that he might save the life of John Christian Schultz after he had been sentenced to death by this same Louis Riel, and what the father did for the country, I ask your Lordships not to forget when you are considering the sentence of the son.

My Lords, there is another thing that I beg to draw your attention to. Through all this revolution, through all the bloodshed and all the turmoil that took place, let it be remembered that up to the present moment, not the approach to an insult was offered to a woman. I don't know if in any other country on the face of the earth such a thing could be said, that a revolution where Indians and whites and half-breeds were mixed up together, there was not an insult offered to any one woman during the whole course of it. That speaks with a thousand tongues in favor of these men, and it shows that while they were desperate, while they fought like lions and tigers, that still the man was in them, the hearts of men, and women were sacred from touch or from injury. Let that not be forgotten in their favor.

My Lords, while I speak to you I am aware that it may appear to your Lordships, who are so thoroughly conversant with everything connected with this rebellion, that I am simply repeating that which you know and have heard before, yet there are others outside of this court that have not heard. These people have been made to believe—they have been led to believe by Louis Riel and others like him—that when they came before a court of justice there was no justice for them and nobody to speak for them, that they would meet with nothing but the most determined punishment, that death was their portion. Now, let them understand, and through them let all the half-breeds of this country understand, that when a half-breed comes before a British court he will find a British advocate to stand up and to defend his rights, to defend his interests, to defend his life with as much energy, with as much vigor and with as much determination as he would that of any white man who is admittedly under the shadow of Her Majesty's protection.

This is one reason why my learned friends here who are in the case with me asked that something should be said on behalf of these men when they came to be sentenced.

My Lords, I am satisfied that in giving them a light sentence, the majesty of the law will be thoroughly vindicated. If sentencing the youngest of them for life would bring back any one of those who lost their lives during the late rebellion to life, I would be the last to say not to send them for life; but will sending them to a penitentiary for a long term of years—will that bring back one life that has been lost? Will it soothe or comfort or console one heart that has been broken by this unfortunate rebellion? Will it dry the tears of a mother who has lost her son? Will it recompense the heart of the widow who has lost her husband? Will it bring back any of those things that have been lost, to punish these men? Is it not in the very heart and soul and substance of the law that justice, and not vengeance, is the platform upon which, or the foundation upon which, the law is constructed? Let this principle not be departed from. It may be said some of these men are very safe because they did not go to the gallows; they only go to the penitentiary. The penitentiary, my Lords, what is it? A living tomb, a half-way house, a compromise between life and death, a compromise such as no brave man would accept if he had the choice between life and death. It is a place where a man is immured from the outer world. It is a place where doors are locked, and no hearts feel and no hearts

throb except that of misery; misery, treble the misery, without locked doors. The seasons may come around in their annual course, the sun may shine brightly, and birds may sing, but to him all is gloom—one day so like another, that when death comes it only seems like another night.

My Lords, consider this, and consider that these unfortunate men have not even that which may comfort others when they are sent to a penitentiary. They cannot either read or write. They have not the means of amusement. There, mind must brood on mind, until soul eats soul and the man becomes either a maniac or a corpse.

I ask you, my Lords, I ask you in the interests of humanity; I ask you in the interests of these unfortunate people, and of their unfortunate families—over 150 children are represented here, their fathers being before you awaiting their sentence; their bread-winners are now in your hands, and you are to determine what becomes of them—I ask you to send as many of them home as you can in mercy, so that they may be able to make a living for their little ones, that they may not become a charge upon the country or waifs on the prairies, and that their lives hereafter may become a curse to the people and to the Government of this country.

My Lords, I will not detain you any longer. We have read—and I thank you, and thank you most sincerely, you gentlemen representing the Crown, for the attention with which we were listened to in producing this immense volume of evidence, and which we went over carefully to-day and yesterday, on behalf of these prisoners; but I would say to my learned friends representing the Crown, two gentlemen who reflect credit and honor on the profession where they come from—I ask them to put in a soft word on the side of mercy for these prisoners, and that if they can in any way influence your Lordships in your verdict, I ask them to do it on the side of mercy rather than on the side of revenge, which is not the intention nor the object of this law, the inflicting of punishment.

Mr. Robinson.—I would only ask to be permitted to say that as my learned friend has said, we have gone very carefully over, both with your lordship and him, the case of each prisoner, and we have stated as fully and fairly as we can, everything that tells in their favor as well as against them, and your Honors are perfectly well aware, revenge, as it is expressed, is the last thing on earth that the Crown conceived, desired or thought of.

Mr. Justice Richardson.—(Interpreted in Cree to the prisoners.) If you twenty-five men had not been defended on your trial you certainly have had the best advocate, as good an advocate in your favor towards merciful consideration in your case, as I think could be produced.

You have been convicted, as I said before, of the second most serious offence that belongs to the criminal calendar. And from what has come under the notice of my brother MacLeod, who has kindly come down to assist me in the arduous duty that I had to perform, what has come under our notice, I say, it seems but too plain that the representatives of the Crown might have charged you with the higher offence of treason. If they had done so there would have been no alternative but a trial by jury, and if you had been convicted, there would have been no alternative for us sitting here but to say to everyone they should be hanged.

You have been charged with the lesser offence of taking up arms and fighting Her Majesty's troops, and while my brother MacLeod and myself are relieved from passing the great sentence of death upon you, we have still a very arduous task before us, and a terrible one at that. We have listened patiently to what your counsel has addressed to us. We have read and examined the papers he has produced to us. We have considered them as carefully as we could consider them, and throughout the whole of our considerations, not one word of pressure has been brought upon us by the representatives of the Crown, to dictate or to regulate or to press for extra punishment upon you.

The counsel who has addressed us just now in your behalf has alluded to the position you stand in with regard to those dependent upon you. He has mentioned to us the losses that have occurred in life, the lives that have been taken there and

the numbers of widows and orphans there are, and it is very proper that he should have done so, quite proper that he should have done so, but while doing so and while considering that, as would be our duty, while considering that, we have another duty to perform. Are there no other widows and orphan children in Canada whose present position is due to your wrongful act? While looking at one side which would be your interest and the interest of your friends, we have to look surely to the other side.

The law defines what is a crime and defines also the limit of punishment for violating that law, for committing that crime; and the object of punishing for committing a crime is not only to make you and those about you feel for what you have done, and feel keenly, but to deter others from following your evil example.

Now, in your cases the law fixes the punishment at life or less than life, imprisonment for life or less than life. What the penitentiary may be, what its rules may be, and what horrors it might induce, we have nothing to do with. The law of the land fixes that, as it tells the punishment for certain offenders.

Your cases have received the best consideration, the most serious consideration we could give them, and using the best discretion which we could give to them and which could be given to them, we have arrived at certain conclusions. And we have been led to classify you, and while classifying, we have in no instance gone to the extreme limit of the law, and while exercising the discretion which the law imposes upon the court, it is but right that I should say that it lies still with the Crown, it lies still with the Queen's representative to vary that, to lighten that sentence. In the classification we have made, the greatest difficulty which has beset us has been how to dispose of an old man, one of you, Pierre Parenteau, whose age is given as 72, and giving to his case every consideration that we could, every reasonable consideration, we cannot conclude, old as he may be, to relieve him from the foremost list. Any interference with that must rest, of course, with Her Majesty's representative, with the Crown.

The sentence of the court upon Philip Gariepie, Alexander Cayen, Pierre Henri, Maxime Lepine, Pierre Parenteau, James Short, Baptiste Vandal, Pierre Vandal, Albert Monkman, Philip Garnot, and Maxime Dubois, the sentence upon you, and each of you, is that you be confined in the penitentiary of Manitoba for a period of seven years.

Alexander Fisher, Pierre Gariepie, Moise Ouellette, the sentence of the court upon you is that you be confined in the penitentiary of Manitoba for the period of three years each.

Joseph Arcand, Moise Parenteau, Ignace Poitras the elder, Ignace Poitras the younger, the sentence of the court upon each of you is that you be imprisoned in the common gaol, at Regina, for the period of one year each, with hard labor.

Emmanuel Champagne, Joseph Pilon, Baptiste Rocheleau, François Tourond, Patrice Tourond, Alexis Labombarde, Joseph Delorme, upon each of you no sentence will be passed. You will be discharged to-day upon your own recognizance to appear for sentence when called upon, if the Crown should see fit to require you. Octave Regnier also discharged on his own recognizance.

THE QUEEN *vs.* JOSEPH ARCAND, *ET AL.*

North-West Territories, }
To wit: }

I, Alexis André, of Prince Albert, Priest, Superior of the Catholic Mission of Carlton, being duly sworn, depose and say:—

1. I have lived twenty-five years among the half-breeds in Dakota and Manitoba, and fifteen years among them at that part of the Saskatchewan where the late rebellion broke out. I personally know almost every one of the half-breeds, and am thoroughly well aware of the various ways and means by which Louis Riel secured the adhesion of these people.

2. I most solemnly declare from my own personal knowledge that with the exception of Gabriel Dumont, Napoléon Neault and Damase Carrière, now deceased, not one of the other half-breeds had the least idea or suspicion that there was any probability or danger of rebellion, until they were so completely involved in the toils of Riel, and he had led them on until they were so compromised, that there was no escape for them. On the one side were most glowing promises of peace and plenty for them if they would follow him as their leader; on the other hand they were made to religiously believe that they had no mercy to expect at the hands of the soldiers, police, or from the Government of Canada; if taken prisoners or wounded, they were told nothing but death with un pitying torture awaited them at the hands of the soldiers and police, and their wives, daughters and sisters would be dishonored before their eyes, their children hacked to pieces, and all their earthly property utterly destroyed, and their whole nation exterminated by the brutal soldiery. But if anything were wanting to complete the terror of those poor, deluded people, it was supplied when pointing out the fate of Charles Nolin, who had been sentenced to death by Riel for desertion, and ordered to be shot on view as a deserter, was imprisoned by the police. The treatment of Charles Nolin by the authorities gave great force to Riel's threats, and above all to a great extent gave an appearance of truth to the assertion of Riel when he so often warned his unfortunate dupes, that there was no mercy to be expected for them if they were taken prisoners or surrendered to the police or Government.

It will be remembered that a proclamation was issued by Major Crozier at my suggestion, knowing that a great many of the half-breeds were kept by force, and had been brought by force into camp. The proclamation of which a copy is herewith produced offered protection to all those who were forced to take part in the rebellion, on their surrendering themselves to the commanding officer at Carlton or Prince Albert. Now, on this proclamation, Charles Nolin, when he made his escape, at once went to Prince Albert with the proclamation in his pocket, confident in his loyalty, and in the promise given in Her Majesty's name, applied to the officer in command for protection. He was rewarded for his loyalty and confidence by being ironed and cast into prison, where he was kept for two months, without any charge or accusation being made against him, and without any explanation being given to him, and was at length liberated without any explanation or excuse.

This most illegal and ill-judged proceeding gave fearful weight to Riel's assertions. "See" cried he, "what you have to expect if you desert as Nolin did. See the mercy that will be shown to you, and think of your wives and families. Nolin is a deserter, he will be shot if I can catch him, and the police have him chained in prison, from which he will be brought out only to be hanged like a dog, &c. Now you know that death is the certain portion of any traitor or deserter from our sacred cause, or of those who attempt to escape from our camp when the lives of their friends and families depend on all being true to our holy cause." The poor people were also terrorized into submission by their cunning leader pointing out to them anyone deserting now in the hour of danger, in the face of the enemy, would live a life of shame, abandoned by all honest and brave men, would go down to the grave dishonored with the name of coward, and would leave behind them a memory branded with disgrace, which would be carried on his brow by every one of his descendants to future generations.

Pierre Parenteau I have known since I met him in the Red River Settlement, now Manitoba, since 1862. He is a man of 72 years of age, and has eleven children, and since I first knew him has been a man of peace, one who was remarkable for the good influence he exerted over the people of his race and kindred, who, when on the plains in days now passed, a leader of his people he prevented many a bloody deed between the Indian tribes and half-breeds, and always was on the side of peace and order. This good old man was misled by the wily Riel telling him that the younger men of his race required the soothing and pacifying influence of the old friend and counsellor of their forefathers; that it was his duty to become a leader or counsellor among the people in their peaceful efforts to secure their rights. That it was by such

assistance as his that he depended upon avoiding all approach to violence, and to succeed in keeping union and peace among the half-breed people. This poor old man was borne on by the appeal to his heart and conscientiously did what he thought was right. He was not in conscience or in fact guilty of any disloyal thought or action, and stands before God and man to-day, although in a felon's cell, an honest man. To keep such an aged and respectable man as this any longer in prison must be to strike at the heart of justice and render law a thing of scorn. His house has been burned down and all his horses and some of his cattle are lost or stolen.

Emmanuel Champagne I have known since 1861. He was then a resident of Dakota, and was doing a considerable business at Pembina during the horrors of the Sioux massacre in 1862, and has a wife and seven children. Champagne saved the lives of many white men and women at the risk of his own life and property, and is gratefully remembered by many of the white people of Dakota to this day. After living in Red River Settlement and Manitoba, respected for many years, he came to the Saskatchewan about six years ago, and lived at Batoche, where he had a very fine place and a large business. I believe he was worth at least twenty-five thousand dollars—to-day he is a ruined man. When Riel proposed to the old man to join the movement of the half-breed rights he promptly refused to do so. Persuasion of all kinds failed to induce him to go in with Riel. When Riel and his followers came to Batoche, Champagne was again solicited to join the movement, and, on positively refusing to do so, threats were used instead of sweet words. Unless you consent to become a member of the council your whole property will be pillaged, your life will not be safe, you will be at the mercy of those who wish to abuse you, and by threats and force the old man was kept there, but he acted as he always had done, defended those who were in danger. To him Tom McKay owes his liberty, if not his life, and to McKay's being at liberty the Government of Canada owes the fact, to a great extent, of the speedy suppression of the rebellion. I have no hesitation in declaring that Champagne, instead of being in prison as a malefactor, ought to be distinguished by the Government as one who was loyal and true to his Queen and country in a time of trying danger. One thing is certain—a very short time longer in prison, and death will deliver him, as he is sick, old and failing fast. He is between sixty and seventy years old.

Maxime Lepine I know well. He was a leading man in Manitoba before he came to the Saskatchewan. He was in favor of constitutional agitation to secure the rights of the half-breeds, but was positively opposed to violence of any kind, and it was only by compulsion he was kept among the Riel people. He opposed himself to Riel in every way he could, and prevented a great deal of violence and mischief by his determination. He was always very moderate and peaceful in his conduct. He has a wife and six children, and is about fifty years of age.

Pierre Gariépie is an old man of fifty-five years of age, and has a wife and seven children, and has been all his life nearly on the plains as a hunter. He has a large family, and is ignorant of the ways of political tricksters and civilized agitators. He is just one or two degrees above the Indian, but was a leader among the plain hunters. Riel made him believe there would be no trouble or violence, and when the wounded at Duck Lake were about to be brutally massacred by the Indians it was this old man in particular who saved them.

Albert Monkman I have known for two years past. He is a man who has been very much, and I think unfairly, abused and misrepresented. I always found him kind and good, and he always took the part of the weak and defenceless against Riel, to his own very great danger and risk. The opinion I got of him from my brother priests is most favorable. He prevented the burning at Duck Lake and St. Laurent of the Catholic churches, although not a Catholic himself, and was imprisoned by Riel because he opposed him in every way he could and wanted to escape from the rebel camp. I sincerely believe that Monkman was a good, true and loyal man, who was placed in most difficult circumstances, and acted amid danger and difficulty as few men would dare to do for the best interests of the country, even at the imminent risk of his life.

Philip Gariépie, forty-eight years of age, I have known for twenty-five years. He has been married for twenty years, and has a large family of six children. All the settlers know this man and respect him. He is one of the most respectable and peaceable men in the whole country, kind-hearted and gentle as a woman. I am informed that he is accused with having abused a wounded man—Nowitt. From my personal and intimate knowledge of this man's character and disposition, I do not hesitate to pronounce this accusation to be false and unfounded. It is repugnant to every feeling of the heart of a man like Gariépie. It is the act of a savage and brutal and wolfish nature and disposition. He is quite the contrary—kind, amiable and charitable, while his accuser, who is, if I am rightly informed, one Levêque, is totally unworthy of belief. He came to the Saskatchewan poor and miserable, and was treated kindly by Gariépie, whom he now tries to ruin.

Joseph Arcand is a poor, harmless kind of individual, about fifty years of age, with a wife and six children living. He was plunged in misfortune at the time of the rebellion. He lost two children by death during that time, and was almost in despair. He took no part in any fight, and was sent away to protect the prisoners in Poundmaker's camp, where his conduct was kind and considerate. The poor man is still keenly suffering from the sad loss of his children, and is an object of pity more than vengeance.

Alexis Labombarde is a poor, old, almost blind man. He has a wife but no children, eighty-two years of age. I have known him for twenty-five years past. I was sent by the Government as a commissioner to the Sioux in 1862, during the massacre, and this old man was my interpreter at the time. I found him honest, trusty and reliable. He has been acting as an interpreter the greater part of his life, and he is now accused of acting in that capacity between Riel and the Sioux. He did so without any evil intent, and without any idea that he was doing wrong. I know myself that he told the Sioux to be moderate and not to kill; this I know from the Sioux themselves who told me. Now, to punish this old man for acting as an interpreter would be just about as just as to punish a telephone for carrying sound. I do not think the Government of Canada will advance their own glory or the interests of the Dominion by going to the cradle to find criminals, or on the verge of the grave to find victims.

Philip Garnot I have known for about four or five years. He is a very nervous and timid creature, with very little courage or decision of character. Riel ordered him to take up arms; he refused to do so, and continued keeping his little boarding house and attending to his business. Day after day for four days Riel ordered him to come and take part in the movement, at last Riel ordered him to be dragged to the camp, where overpowered by terror for his life and fear of loss of his property, he consented for fear of death to act as secretary, but refused to fight, or to resort to the use of arms. It must be remembered that having a gun in one's hand in Riel's camp was no proof of disloyalty or of being a fighting rebel. Many had to carry a gun to protect themselves or their property from the savages who were not at all particular whose property they took when the desire possessed them. I have reason to know that Garnot was invariably kind and considerate to the prisoners and to all those whom he could assist in his peculiar position.

Alexander Fisher I have known for twenty-five years, part in Manitoba and in the Saskatchewan. He is an innocent, flighty kind of fellow, who is always ready and anxious to create a laugh. He was the owner of the ferry and it was all he had to support his family. He was compelled to remain to try and save his ferry and wire cable as it was his all. He was always opposed to the Riel movement, and it was only abject fear of death that caused him to remain in the camp in addition to the fact that his three little daughters were in the convent school, and he feared if he escaped they would suffer for him. I am told that a great deal of importance is attached to a paper signed by him as Governor of the Saskatchewan, or of some other silly joke of that kind. Surely no one can be mistaken in seeing that the poor creature was joking. He is of so volatile a disposition that he will do any kind of silly folly to make people laugh. Again he is I believe accused of signing a declaration of neutrality. Well, it

may be a crime to do so and it may make a man disloyal, and guilty of high treason to do so. The poor half-breeds are not very deeply versed in the noble science of law, and they may be perhaps pardoned for doing that which their priests were obliged to do under a superior force, to save their lives and to be able to assist the tardy authorities whose neglect had left them at the mercy of a lunatic or a tyrant. Fisher never took up arms. He has lost all his property, he is guilty of being obliged to do the best he could to save his life and that is all his guilt. In all other respects he is perfectly innocent. He has three children whose mother is dead.

Pierre Henri is known to me for twenty years. The last two or three years in Saskatchewan. He is a very quiet, silent man. Riel used him as a counsellor because he never has anything to say and is a profoundly ignorant man. I solemnly declare that I know of no act of his that was bad. He did no harm of any kind to anyone, and was more a cat's-paw than anything else. He has a very large and helpless family of a wife and seven children. One of his sons being a confirmed invalid, God knows what will become of them if he is kept in prison, they will become a charge on the public. He has lost all his property.

Moïse Ouellette I know for twenty-five years. He is not a man of much intelligence. He has a very large family of eleven children and his wife and is their only support. He assisted Lepine and Ross; and Ouellette, from the beginning, opposed Riel in every way possible, and they did all they could to prevent rebellion and any resort to arms. This may be seen in Riel's prayers, when he prays to God to change Ouellette and others. Ouellette was the man who carried General Middleton's letter to Riel for which he was promised considerations. He is about forty-five years of age.

Ignace Poitras, senior and junior. I have known the old man for fifteen years, since he came and settled on the Saskatchewan. He is one of the most simple, honest and peaceable men in the whole settlement, never mixing in any agitation or trouble. I am very intimately acquainted with him. I have often been his guest, and always found a welcome at his hospitable house. His industry and economy made him a comfortable and well-off man. He was, fortunately for the prisoners in Riel's camp, one of their guards, and I was told by several of them that he was kind and good to them always. He is about sixty years of age and has a wife and ten children, and has lost everything. The young man was with his father and is a harmless youth. The old man is old and feeble, and has suffered very greatly in health and property. The best interests of justice would, I think, be satisfied by sending him home to his poor family.

Baptiste Vandal is the near neighbor of Poitras, and I can say the same about him that I do of Poitras. He resisted for a long time before he could be forced to join Riel, and did so only from fear and compulsion. He has a large family of a wife and eight children, and is a very poor man, and is an old man of about fifty years of age. Riel wanted to name him a captain but he refused positively to act, and hence was appointed one of the guards over the prisoners, and they all agree that he was most kind to them, and gave them any little comfort in his power, such as tobacco, &c.

Baptiste Rocheleau, who is generally known as Old Man Rocheleau, is nearly seventy years old. He was always a hard working, peaceable man. Has a family of a wife and four children and was entirely opposed to Riel's proceedings. He refused to fight or do anything wrong, and was like the last two named placed over the prisoners and compelled, through fear, to remain in camp. He speaks the English a little and proved useful and a friend to the prisoners. He is a humane and good old man.

Joseph Delorme I knew in Manitoba and during the three years that he has been in the Saskatchewan. He was always a very respectable, hard working man, very honest and well thought of. He, for a long time, refused to have anything to do with Riel, and induced his neighbors to refuse to do the same. It was only by force and threats that he was compelled to take part with the rebel party. He has been very severely wounded, is a cripple for life, and his home and family utterly ruined. If he offended he has been very heavily punished, and the hand of justice might, in

mercy, deal lightly with him. He has a wife and four children and has lost everything.

Maxime Dubois I have known since he was a boy. He has a family of seven children. He was in my service for some time, and proved honest, faithful and reliable, and has been greatly trusted by his employers, and always proved very worthy of being trusted. This poor man was induced to surrender himself by the advice of Father Végreville, and is now a prisoner for the reason above. He is about thirty-six years of age, and his wife is a cripple.

Pierre Vandal I have known for fifteen years. He has seven children, young, and unable to provide for themselves. He is thirty-six years of age. The poor man was sick and unable to do anything; being useless, Riel sent him off to Battleford along with the others to protect the prisoners in Poundmaker's camp. He neither had arms nor did anything for which he should suffer the punishment he has suffered since he foolishly surrendered himself to the authorities.

Alexander Cadieux, or Kitwayo, is a pure Indian but has lived with the half-breeds. I have known him for seventeen years, he is a hunter and has a great deal of influence with the Indian tribes. He has a very large family of ten children and their mother. Two of the children are cripples, and he is an old man nearly sixty years of age. He spent the winter hunting away two hundred miles at Turtle Lake, and only arrived about the end of April when he was seized by Riel and forced into his service. He was not present at any battle and rendered very signal service in saving the lives of the teamsters when the Indians were about to massacre them, after taking them prisoners. He has lost everything.

James Short was always a good, honest man. He was a buffalo hunter, ignorant and easily led away; Riel made him believe anything he wished. Although an ignorant man, he is a noble fellow, and incapable of a mean or unmanly action. He was present above Lepine's Crossing when flat boats were sunk in the river with a large quantity of arms and so forth belonging to the Government, and Captain Gagnon, Superintendent of the North-West Mounted Police, at Prince Albert, told me that Short saved a large quantity of rifles and other property for the Government by diving down in twelve feet of water. I beg leave earnestly to recommend this man to the clemency and mercy of the court, as he has a large and helpless family of a wife and ten children depending on him for support, and refused to run away or escape when told to do so, but went to work to make a living for his family and was made prisoner while freighting.

Joseph Pilon is a farmer, and has a family of ten children, and is about fifty years of age. He lived half a mile from Batoche; he was always an industrious and hard working man. When the trouble broke out this man was ordered by Riel to come into camp or he would force him to come, as he had protested against Riel's movements, and had refused to attend any of his meetings, and never contributed one cent towards Riel's support last winter. Pilon, when he was threatened by Riel, came to the priests, and cried when telling what was wanted of him. Riel by force and threats against his life compelled him to serve his purpose. Poor man, he deserves pity rather than punishment.

François and Patrice Tourond are brothers. I have known them for a long time. They are unmarried. They are among the most respectable families of the North-West. They were seven sons and a widowed mother. These young men were the admiration of all the neighborhood; they were so quiet and hard working; their farm was the nicest kept in the settlement. They were opposed to Riel in all his movements. The crafty Riel tried every means to induce the boys to join him, but without success. They were well off, had a fine farm, plenty of cattle and horses, and were worth a good deal of money. Riel went day after day to the poor widow, and with his devilish cunning played on her superstition and credulity. He told her of his holy visions, how he saw himself surrounded by seven glorious stars of extraordinary brightness crowning him with glory. These bright stars, he cried, are your seven glorious sons, who are to achieve the glory of the half-breed nation, and the poor woman, in her simple faith of his divine mission, prayed for her fine

young sons to go forth and battle under the banner of heaven. Alas, with what terrible results! That once happy home is now desolate, the wealth produced by industry and sobriety is swept away like snow before the wind; the proud young sons, their mother's pride and strength, where are they? Three of them, shot on the field of battle, lie in hurried graves on the banks of the Saskatchewan, another died of a broken heart at the sudden shock of the terrible death of his brothers, another wounded and crippled for life, and two, the two above named, prisoners, awaiting sentence at the hands of outraged majesty of the law of their country. Oh, spirit of mercy, enter the heart of their judge in pity and compassion, for the poor heart-broken widow now almost childless; deal mercifully with these poor deluded young men, and in mercy send them home to console the desolate heart of their mother. It must be remembered to the credit of Patrice that when Riel ordered the prisoners to be given up to the savages to be brutally murdered he cried out: "Riel, these prisoners you shall not kill till you kill me first." These two young men are the only support of their mother and two young sisters. They have lost all their property.

In conclusion I would most earnestly pray for mercy for these poor people, ignorant, innocent, confiding; they were misled by one who thoroughly knew their weak minds and their heart. They were called on in the name of God and of the holy saints, by one who declared himself ordained by God to do a great and good work. They were blinded by pretended visions and messages from the Holy Ghost; poor people, in their trusting confidence they were led on to desolation, misery and death. Over the grave of the silent dead, rise up the shrieks of despair of the frantic living, to a righteous God for consolation and succour and to the majesty of the offended laws of their country for mercy.

That gallant soldier, Captain H. S. Moore, said to Bishop Grandin: "Although I am one of the greatest sufferers by this terrible rebellion, and will limp through life on one leg, yet I say from my soul, hang Riel and Dumont, but forgive all the others. They are innocent of intentional crime, and were misled by that soulless rascal Riel. I forgive them from my heart." This is the spirit in which I humbly beg of the court to consider the sentence of my poor half-breed people; show them that their priests, who always tried to lead them to act as loyal and good subjects, should have some little influence to temper the sword of justice and direct the hand of mercy.

A. ANDRÉ, O.M.T.

Sworn before me at Regina, in the
said Territories, this thirteenth
day of August, A.D. 1885.

DIXIE WATSON, Clerk of the Court.

PROCLAMATION.

All persons forced to take part in the rebellion against our Sovereign Lady Queen Victoria, or those retained by the rebels against their will, will receive protection in presenting themselves to the Commanding Officers at Carlton or Prince Albert. God save the Queen.

L. N. F. CROZIER, Commandant, N. W. M. P.

This is the proclamation referred to in the affidavit of Alexis André, sworn before me this 13th day of August, A.D. 1885.

DIXIE WATSON, Clerk of the Court.

THE QUEEN vs. JOSEPH PILON, FRANCIS TOUROND, PATRICE
TCUROND, ET AL.

CANADA:
North-West Territories,
To wit:

. I, George Albert Kerr, of Batoche, in North-West Territories, merchant, make oath and say:

1. That Joseph Pilon, above named, came to my store, near Batoche, and had a conversation with me in which he expressed his disapprobation of the rebellion. This was on the morning after the rebellion had broken out, and he stayed away from Batoche as much as possible.

2. He had two sons, one of whom is a married man, and both of them are full grown men; said married son has a wife and family and has been forced to take part in the rebellion.

3. He was kept at Batoche by terror and only stayed because he wished to get off his son who had been taken there as aforesaid, and was almost overcome by consternation, and the said Joseph Pilon went home as often as he could, and stayed there till brought again.

4. That up to the time of the battle of Fish Creek, Francis Tourond, above named, was at home and did not go to Batoche at all after the battle in which, I believe, he took no part. I, with my brother John Kerr, were hid for days in the Touronds' granary by said Francis Tourond, where he and his mother fed us. He took us to the house of the McIntoshes' who lived near there.

5. From my own personal knowledge of the character of the Touronds, above named, I can conscientiously say that they would never have been connected in any way with the rebellion had they not been coerced or misled into it through religious deception, which I was personally in a position to know, and I do know and feel called upon to state in fairness, was actually the case with them in the late rebellion of 1885.

GEO. A. KERR.

Sworn before me at Regina, in said
Territories, this 11th day of
August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN vs. JOSEPH ARCAND, ALEXANDRE CADIEUX, EMMANUEL CHAMPAGNE, MAXIME DUBOIS, ALEXANDER P. FISHER, PHILIP GARIEPIE, PIERRE GARIEPIE, PIERRE HENRI, MAXIME LEPINE, MOISE OUELLETTE, PIERRE PARENTEAU, MOISE PARENTEAU, IGNACE POITRAS THE ELDER, IGNACE POITRAS THE YOUNGER, JOSEPH PILON, BAPTISTE ROCHELEAU, JAMES SHORT, FRANCIS TOUROND, PATRICE TOUROND, BAPTISTE VANDAL, PIERRE VANDAL, AND OTHERS.

CANADA:
North-West Territories, }
To wit:

I, George Ness, of Batoche, in the North-West Territories, Esquire, make oath and say:

1. I have for some time past been personally acquainted with each and every of the above named, Joseph Arcand and others named thereafter, and I have been one of Her Majesty's justices of the peace in and for the North-West Territories for some time past.

2. The said persons above named had each and every of them always been honest and peaceable inhabitants, and law-abiding and loyal subjects of Her Majesty the Queen up to the time of the late rebellion in the said Territories.

GEORGE NESS.

Sworn before me at Regina, in the said
North-West Territories, this 7th
day of August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN vs. JOSEPH ARCAND, ALBERT MONKMAN AND OTHERS.

CANADA :
 North-West Territories, }
 To wit:

I, Baptiste Arcand, of Stobart, in the North-West Territories, farmer, make oath and say:

1. That one of the children of Joseph Arcand, above named, died just before the rebellion of 1885, in the said Territories, and another child was then at the point of death and has since died.

2. The last named child being very ill about the 20th day of March last, past, I went to Louis Riel, who had taken said Joseph Arcand from Stobart to Batoche, and told him that Joseph Arcand was not right in his head on account of the death of his child, and that the other child was very ill, and I urged said Riel to let him go home, and afterwards with myself Joseph Arcand begged said Riel to allow him to go to his home, but said Riel on both occasions refused to let him go.

3. When the Council were chosen said Joseph Arcand being there present was chosen, but persistently refused to allow his name to be used, as far as lay in his power, and his name was omitted from the Council, and he at the same time was proposed for captain by the said Riel, but objected to being such, and he did not become a captain.

4. Afterwards he succeeded in getting home, and remained home a few days, when he was sent for by Riel, and two men, both armed, again took him to Batoche on the 25th of March last past, and he returned home the same day.

5. The morning of the battle of Duck Lake he went to Duck Lake to get some cotton for a shroud for his dead child, and was returning home when the battle of Duck Lake was in progress.

6. He was not at the battle of Fish Creek, but was on the west side of the river, near Alexander Fisher's house, where he remained for a week with his family until a man came from Battleford with complaints that the Indians were threatening the priest there and the half breeds and they wanted help, and he went with others by order of Riel to Battleford, from which place he did not return until after Batoche was taken by General Middleton.

7. Said Joseph Arcand has a wife and six children now living.

8. When I first saw Albert Monkman at Batoche he advised my brothers and myself strongly to go home and have nothing to do with the rebellion; he was not armed himself, and I heard him say to Riel at the time of the trial of Nolin and Boyer, the following: "Curse you, you are after another Scott affair, and you shall not do it if I can help it."

9. Said Monkman never incited nor advised the Indians near Duck Lake to take part in the rebellion, but, on the contrary, spoke against their doing so.

10. When said Monkman was at Fort Carlton thereafter I saw him there and he told me privately that he intended to arrange matters there so that the prisoners then could all escape, but very soon afterwards he was removed from there, as I was informed, by Riel's orders.

BAPTISTE ^{his} + ARCAND.
 mark.

Sworn before me at Regina, in said Territories,
 this 7th day of August, A.D. 1885, having
 been first explained by me to the deponent,
 who seemed perfectly to understand the
 same, and made his mark thereto in my
 presence.

CHAS. NOLIN, *Justice of the Peace in and for said Territories.*

THE QUEEN vs. JOSEPH ARCAND, EMMANUEL CHAMPAGNE, ALEXANDER P. FISHER, PIERRE GARIEPIE, PIERRE HENRI, MAXIME LEPINE, ALBERT MONKMAN, MOISE OUELLETTE, PIERRE PARENTEAU, JOSEPH PILON, IGNACE POITRAS, THE ELDER, IGNACE POITRAS, THE YOUNGER, BAPTISTE ROCHELEAU, FRANCIS TOUROND, PATRICE TOUROND, BAPTISTE VANDAL, *ET AL.*

I, John W. Astley, of Prince Albert, in the North-West Territories, civil engineer, make oath and say:

I was in the rebel camp from the twenty-sixth of March, until the twelfth of May last, after the battle of Fish Creek. The half-breeds were notified by Louis Riel that they had better fight now to the last man, as no mercy would be shown them whether they surrendered or were taken prisoners, that they would be every man hung or shot by the mounted police or by the Canadian Government, and it was by thus terrifying them that the half-breeds were kept together.

On the twelfth of May I talked to Louis Riel for a long time about the rebellion and its results to himself. I said to him, "You know you escaped from the consequences of your first rebellion through politics." He replied that he had, but, said he, "I have three chances or means of escape this time; first, through politics; secondly, through the papers of the Council. You must know that I have so arranged all the papers of the Council in such a way that everything will show that the Council did everything, and my name will not appear as doing anything, and should we arrange to do as you wish, the papers will all be found properly fixed in the Council chambers. My third chance will be on the question of my being the head of this new religion. If you will mention that to the general (meaning General Middleton) it will give me the greatest chance, as it will show that I wish that." I said to him, "What will I say to the general about the French half-breeds' claim?" "Oh," said Riel, "that is a very secondary consideration; I think of myself first." Again I said, "if there are any conditions to be made for the claims of the half-breeds a word now might be of great advantage to them, as the general will not forget to report it." Again he replied, "I assure you their claims are of a very secondary importance, my own safety is of the first importance." After this conversation I returned to General Middleton to try and get the troops to cease firing, and then came back to Riel, when I said to him, "Now, there is no time to lose; call your Council together and let us have an understanding, I will address them." Riel said, "that is quite unnecessary, I can do as I wish." Then I said, "you admit that you act without any Council," and he said, "yes, I do just as I wish." As I left Riel I said to him, "should I not be able to return you know what to do; come in all of you and surrender; if I can I will come back." Two old men, Ross and Ouellette, actually did await my return till they were shot dead.

I know Alexander P. Fisher, he was in the rebel camp. I always looked upon him as a kind of a soft-headed fellow who had no brains in him, he had no arms and did not do any harm to anyone. He is a kind of small wit, and would do almost any kind of foolish thing to make the people laugh. I considered him a harmless nonentity.

Pierre Gariepie was a kind old fellow to the prisoners. Pierre Henri was about the same as the last. Maxime Lepine seemed to me to be anxious to end the matter, he did not seem to be heart and soul in it. Albert Monkman did all he could for the prisoners. I several times heard Riel scolding Monkman for not bringing in Scotch and English half-breeds as he had been ordered to do. Moise Ouellette carried a letter to Louis Riel from General Middleton, which letter was the cause of Riel's surrender. I gave the letter to the priest at Batoche. Pierre Paranteau was an ordinary man among the half-breeds. Ignace Poitras, senr., Baptiste Rocheleau and Baptiste Vandal were three great friends to the Canadian prisoners, and, indeed, had it not been for these three good old fellows we would have been almost starved many a time. They took all the care they could of us, and had it not been for them we would have been a terrible sight worse off.

The two Touronds and Ignace Poitras, the younger; I know little about, and never saw either of them take any active part in the rebellion. The above persons named were made prisoners more with a view to the corroboration, if necessary, of evidence for the certain conviction of Riel by General Middleton, to my personal knowledge. I had given to the general a list of the leaders to be detained, which he lost, and some of the principal men are still at large.

JOHN W. ASTLEY.

Sworn before me at Regina, in said
Territories, this 11th day of
August, A.D. 1885.

HENRY DODD, *Justice of the Peace for the North-West Territories.*

THE QUEEN vs. EMMANUEL CHAMPAGNE, ALEXANDER P. FISHER,
PHILIP GARNOT, PHILIP GARIÉPIE, MAXIME LEPINE, ALBERT
MONKMAN, MOISE OUELLETTE, AND OTHERS.

CANADA:
North-West Territories. }
To wit:

I, Thomas Eastwood Jackson, of Prince Albert, in the North-West Territories, druggist, make oath and say:

1. That I was made a prisoner and detained as such, on the eighth day of April, or thereabouts, last past, and was not released from such imprisonment until the twelfth day of May last past, and I have a personal knowledge of the matter herein-after mentioned and referred to.

2. That Emmanuel Champagne, above named, I frequently saw at Batoche during that time, but he took no part in the doings of the Council while I was such prisoner, as far as I could see, and that he was not at the battle of Fish Creek, nor at any time, as far as I know, did he fight in battle.

3. That Alexander P. Fisher, above named, was not armed at any time, so far as I know, and that he had only taken any part for fear of violence to his children by the Indians, and on condition that he should not be called on to take up arms, and should be left to run his ferry as usual.

4. That Philip Garnot informed me, when first I saw him alone, that he had been compelled at the risk of his life to take part in the rebellion, and then began to act as secretary and had no interest in their object.

5. That Philip Gariépie, above named, took no active part in the rebellion, as far as I could see; and that after Charles Newitt was brought wounded from the battle of Duck Lake, both at said Duck Lake and on the road to Prince Albert, the said Charles Newitt stated in my presence that it was an Indian who struck him after said battle and not Philip Gariépie; and from my personal knowledge of the character of the said Philip Gariépie, and his treatment of all the other prisoners, I verily believe he did not strike said Newitt.

6. That Maxime Lepine and Moise Ouellette opposed Riel in the Council very frequently to my personal knowledge, and were for peace, and they only had the courage to do so of all in the Council; that the only ones in the Council that Riel could depend on were Gabriel Dumont, Damas Carrière and Napoléon Nault, and Riel distrusted and watched everyone else. That Riel was chary of everyone else, and they four, Riel, Dumont, Carrière and Nault, controlled and managed everything.

7. That Albert Monkman was absent at the north when Riel was preparing for the rebellion. Riel frequently showed dislike for him and distrust of him, setting two men, Napoléon Nault and an old man named Swain, to watch Monkman. I heard Riel say that he had sent him (Monkman) to bring up the English half-breeds by force, but that Monkman had not done so, but had proved to be unfaithful to his (Riel's) cause. At the time of the Fish Creek fight Riel ordered him to proceed up the river to attack Middleton on the west side, but Riel's spies discovered proofs that Monkman had laid

a plan to escape on horseback, when across the river, and thereafter Monkman was tried in the Council and then after made a prisoner of Riel's and chained to the floor of an upper room in Baptiste Boyer's house, in Batoche, in the room next the room I was afterwards confined in, and he was kept until the ninth day of May, when he was transferred to the cellar with myself and others, where we were kept until released by the troops on the twelfth day of May last past, with the others and myself.

8. I am satisfied from what I saw, and I verily believe that Riel made Monkman a member of the Council, and gave him the command at Carlton with the double purpose of implicating him in the rebellion, as he was an English half-breed, and inducing the other English half-breeds to join the rebels.

9. That Riel had me detained a prisoner in spite of the Council that I should be released, and of this I was informed by Riel himself as well as English speaking members of the Council.

THOS. E. JACKSON.

Sworn before me at Regina, in the
said Territories, this 10th day
of August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN vs. JOSEPH ARCAND ET AL.

CANADA:
North-West Territories. }
To wit:

Charles Nolin, of the Parish of St. Laurent, District of Saskatchewan, in the North-West Territories, being duly sworn, doth depose and say:

1. I had opportunity of being thoroughly acquainted with most of the persons connected with the late rebellion, having been detained by force and threats within the rebel camp up to the 26th. day of March last, when I succeeded in making my escape from the camp.

2. I knew Louis Riel, the leader and promoter of the rebellion. He is a man who wielded a most wonderful influence over the uneducated, credulous and ignorant half-breed population, so much so, that he did successfully lead them astray, against the remonstrances and advice of their priests, who have always been looked up to by them as their true friends, protectors and guides, in all their concerns from the cradle to the grave.

3. I was myself by force and threats detained in the rebel camp, and I know the means used to compel others to come there and to remain against their will and judgment, when it is a question of life and death, when from hour to hour one's life is in danger; if he tries to escape, it is very hard to do so; spies and sentries were posted at every point, at the doors of the houses where suspected persons were lodged, and any attempt to escape was, by order of Riel, to be treated as a crime, punishable with death, and any person found attempting to escape was to be at once shot down, by order of Riel.

4. Riel resorted to the most unusual means to secure an overpowering influence over the minds of the half-breed people. For instance, to excite a feeling of awe in their minds, and no doubt with a view to making them believe that he was acting under Divine instructions, early in the beginning of winter he ordered all persons who had occasion to butcher or kill cattle, to save the blood for him, and from the first day of January he fed exclusively on blood instead of flesh meat, the blood being cooked in milk. This conduct made a deep impression on his superstitious dupes, and when combined with his continual praying and his daily relation of the visions he had the preceding night, and the visits of saints and the repeated conversations he had with the Holy Ghost, the poor half-breeds were convinced in their souls that Riel was God's envoy and that it would be a mortal sin to refuse to obey and follow him as the chief appointed by God to lead them. They had no guilty knowledge

that they were breaking the law. They believed that they could not do wrong when God himself and the Holy Ghost and the Virgin Mary had sent a chosen servant and representative to lead and guide them; no feeling or connection less powerful could have induced them to spurn the advice and prayers of the good priests who had been the guides of themselves and their forefathers for generations.

Riel had a book which he read or pretended to read from to convince the people of the holy character of his mission. He called it the "Prophesies of St. Bridget," a great Irish saint, who he said had foretold hundreds of years ago all the things that were to occur during the years 1885 and 1886. He said that she foretold that the wickedness of the world would have become so great that, from the head of Rome down, the powers of the world would be destroyed, even the Government of Canada, the world's rulers would be destroyed and swallowed up in a general whirlpool of destruction. St. Bridget had foretold that God had appointed a second saviour to redeem mankind amid the final destruction and restore peace, morality and prosperity to the nations; that man must be a descendant of St. Louis; then he went on to prove that he was descended from St. Louis and that the Holy Ghost and the Virgin Mary had visited him and told him that he was the chosen man who was appointed so many hundred years ago, and whose coming was predicted by St. Bridget, the great Irish saint, to redeem mankind, and that his dear brother half-breeds were the first he would redeem.

From the time of Riel's arrival in the country he had been unceasingly going among the half-breed people telling them of the injustice done them by the Government, and showing them that only by meetings and petitions and agitating, could they ever hope to recover their rights. He declared himself their leader, and that if they would only follow him, he would secure for them all their rights and privileges from the Government at Ottawa without bloodshed.

Riel, to get all the people together, had recourse to a ruse. He told them that they must all assemble at Batoche on the 18th day of March, for the purpose of going all together to St. Laurent on the 19th to celebrate the festival of St. Joseph, who is the patron saint of the half-breed people, as St. George is of the English, St. Patrick of the Irish, and St. Andrew of the Scotch, and to make the occasion the more interesting it was announced by Riel that his friend and Secretary Jackson, who had become a convert, would be publicly baptised on St. Joseph's day. When the people assembled from all parts as they were ordered to do at Batoche on the 18th day of March, Riel and his friends at once circulated a report that the mounted police were coming down on the people, and they would all be killed if they did not stand together and follow his inspired instructions. Riel further announced that God had kindly caused them to be assembled together and had put supplies within their reach, meaning and pointing out the various stores in the vicinity, and arms in their hands, through him. Riel, he having told them all to bring their guns with them to the celebration, so that they might pay more honor to their patron saint by firing a "feu-de-joie" after mass in his honor, &c. I give this outline of his proceedings to show how thoroughly he had matured his plans to get the people together, and to make them more blindly place themselves in his power by getting them to break the law. Riel next sent out armed parties to bring in all those who had not already come, and they were ordered to bring them by force if they did not come voluntarily. When Riel had once got the people to commit themselves by pillaging the stores, &c., he next told them that 500 mounted police under Major Crozier were on the way to slaughter them all, and that they must stand together and act under his instructions, and obey him without question, for God had commissioned him to lead and direct them, promising them that there would be no bloodshed, which they firmly believed, or I am certain they would not have consented to remain and meet the police force.

Once Riel had got the unfortunate half-breeds into his power he made them believe that their only chance for life was to stay with him, as there would be no mercy shown them by the Government or by the mounted police, and that his intention was to so conduct matters that without any bloodshed he would secure them the full recognition of their rights; by such promises as these and by resorting to every

possible trick of language and action, by pretending to be specially commissioned by God and the Virgin Mary and St. John the Baptist to lead the half-breed people through all their difficulties to a glorious success without shedding any blood, and without any danger; by kneeling down and with his arms spread out like the arms of a cross, his eyes cast up to heaven and his voice raised aloud to God in prayer, and sometimes by throwing himself on the ground shouting to God for directions, and to protect the half-breeds; it was in this way that he kept the poor, ignorant people subject to his power and influence. I heard him harangue the poor people often, and say to them, "you know that all power and authority is given to the Holy Father the Pope of Rome, you well know that the Holy Ghost descended from heaven and dwells in the heart of the Holy Father, you know that where that Holy Spirit is there must be all power and authority. Well, the Holy Ghost left Rome in the interest of the poor half-breeds of America and took up his residence in the heart of the greatest living saint of the world, the Holy Bishop Bourget, of Montreal. Now, dear half-breeds, here is a letter, he cried, holding a paper up towards heaven, from that great saint, Bishop Bourget, written to me, who am to be the saviour of my people, acting under the influence of the Holy Ghost, and that holy saint tells me in this letter that I have a mission to fulfil, that grand mission is to liberate the whole world, but first I have to liberate the half-breed people whom I love so much, who are my own flesh and blood, who are my brothers, and who live in my heart."

By such means as these he fascinated a large number of his poor credulous followers, and by terrorizing over and making prisoners of those who, like myself, could not be deceived by his pretended divine mission, Riel kept under his authority numbers of good, honest and loyal men who longingly wished for the means of being freed from their disagreeable and false and dangerous position, but who were powerless in his hands, or, under his influence, believing that he was commissioned by God. Among those who, to my personal knowledge, were detained and kept in subjection, either through fascination and superstition, or through being kept in hourly fear of personal danger to themselves and to their wives and children or friends, were: Joseph Arcand, Alexander Cadienx, Emmanuel Champagne, Joseph D  lorme, Maxime Dubois, Phillip Gari  pie, Pierre Gari  pie, Pierre Henri, Alexis Labombard, Maxime Lepine, Albert Monkman, Mo  se Ouellette, Mo  se Parenteau, Pierre Parenteau, Daniel Parenteau, Ignace Poitras, sen., Ignace Poitras, jun., Baptiste Rocheleau, Francis Tourond, Patrice Tourond, Baptiste Vandal, Pierre Vandal, and many others.

To show how unreliable are the reports or minutes of the Council which were kept of meetings and proceedings, I may state that Riel, to plunge his followers, whether they were willing ones or not, as deeply as possible into danger, so as to keep them in his power, passed a motion of Council that every proceeding before the Council should be considered to be passed unanimously, and that all the names were to be entered as being present at every meeting, whether the persons were present or not, so that by this novel means he succeeded in implicating men who were innocent, being forced into compliance by him, and made them, as far as he could, responsible for his acts; for I declare that the whole Council was Riel. The so-called members of his Council were mere cat's-paws in his hands. He ordered and passed and did whatever he pleased, and threatened death to all who dared to oppose him. Here I may explain the presence of names to a very important document now in the hands of the Government. Riel ordered Maxime Lepine and myself to go to Major Crozier to demand his surrender, handed me the letter which was to be given to the Major. Lepine and myself were obliged to go, we dare not refuse, but what was our astonishment to discover, on examining the letter, to find our own names signed to it along with others. We saw at once it was a plan of Riel's to compromise us beyond hope of justification. We determined not to deliver the letter. I gave it to Lepine, who I suppose returned it to Riel, for it was found among the other papers, no doubt placed there for the intended purpose of compromising all those whose names were signed to it. I am fully satisfied that the minute book of Riel's so called council was, from the beginning, cooked regularly to compromise the people, so as to compel them to sink or swim with Riel, and I do

not hesitate to say that they were left where they would fall into the hands of the Government for the same purpose.

On that same night, when Maxime Lepine and myself were sent to demand the surrender of the mounted police, Riel, in a most violent speech, incited the people to take Fort Carlton. "Now," cried he, "is your time, let us go and revenge the death of Goulet" (meaning Goulet who lost his life by being drowned in the Red River, at Winnipeg, in trying to escape from the Canadian volunteers, who were chasing him, soon after the arrival of the force at Fort Garry, in 1870). The whole people were very much incited under his harangue. Maxime Lepine and Moise Ouellette interfered between Riel and the excited people, and, at the imminent danger of their own lives, prevented him from carrying out his object, a midnight attack on the fort, which might have resulted in a fearful massacre of innocent and unoffending people. To show how the half-breeds were led on by Riel, I declare that up to the last moment many English half-breeds were staunch supporters and followers of Riel, and it was only their superior education and want of belief in Riel's Divine mission that prevented them from being to-day as much in the power of the law as the French half-breeds are. Many English half-breeds and whites also encouraged the poor French half-breeds up to the culminating point and then cautiously left them to their fate, and to the infamous and blasphemous leadership of Louis Riel, who has plunged them into distraction, despair, starvation and death.

I declare and depose that this deposition has been written at my dictation; that it has been read over to me in English and French, but it contains the truth and I have signed.

CHAS. NOLIN.

Sworn to and acknowledged before me, at Regina,
in the North-West Territories, this 7th day
of August, A.D. 1885.

HY. LEJEUNE, *Justice of the Peace in and for the North-West Territories.*

CANADA:
North-West Territories, }
To wit:

I, Vital Fourmond, of St. Laurent, Director of Catholic Missions, being duly sworn, doth depose and say:

1. That I am perfectly aware of the uprising of the half-breeds and of the causes which led thereto, and I am compelled to declare that the poor half-breeds were coaxed and forced into that disastrous rising through orders and insane instigation of Louis Riel.

2. From what I personally witnessed and heard from, before, during and after the establishment of Riel's so-called Provisional Government, whether at St. Laurent or at Batoche, the evidence of this my deposition is so certain and manifest that it does not admit of any doubt.

3. Louis "David" Riel, in his strange and alarming folly, fascinated our poor half-breeds as the snake is said to fascinate its victim, abusing, for his own ends, the great confidence that all the half-breeds reposed in him, a confidence founded upon his influence over their minds through his great and impassioned language, and above all on the appearance of his profound religious feeling and devotion, which he displayed in the most glaring and hypocritical manner, which was rendered so convincing to their minds by his public proclamation of his mission as an inspired prophet, which he forced upon their imagination in the most insidious and diabolical manner; he proclaimed himself a new Moses, who had come to deliver his people from bondage and to place them in a new land of promise, where they would enjoy the greatest liberty and happiness and soon become masters of the world, as he would soon march them on Winnipeg by way of Portage la Prairie, and thence to subjugate Canada, and afterwards the whole of the States of the old world, until he, their inspired leader, would be crowned king of the world, and sit in

the chair of St. Peter at Rome as the Pope, in proclaiming which he did the inviolable authority of the Tyrants of Europe, is and ought to be deprived of all his temporal powers and privileges. The Spirit of God has left the Pope of Rome, and has taken up its abode in the holy person of that great saint Archbishop Bourget of Montreal, from whose soul the Spirit of God has passed into the soul of your leader Louis Riel, thus, said Riel, I have received my divine mission conveyed to me in this letter from that saint and bishop, hear the words, "You have a grand mission to fulfil, you must accomplish it at all points." Now, cried he to his poor superstitious listeners, this is a proof of my commission from heaven, and I have been confirmed in it through the Holy Ghost, who has come to me and has taken up His abode in my soul and through me is now beginning on the great work of modern times, that is, to carry out a grand and most necessary reform of the whole world. To finish the complete influence over the poor half-breeds he afterwards strongly insisted on his sacred mission, insisted on the gravity and legitimate nature of their claims against the Ottawa Government, the indifference of the Government to their humble petitions and demands and the consequent misery and distress into which they were plunged, and out of which he alone, as God's agent, could lift them up and make them happy, notwithstanding the power of the Government of Canada, and of their other heartless tyrant, the Hudson's Bay Company, and notwithstanding the power and evil influence of the priests, who were traitors to their sacred calling and were using their influence on the side of tyranny and the oppression of the poor half-breed people.

4. The Sunday before the outbreak, Riel, after mass, came to my house and spoke to me as follows:—"You have turned the pulpit of truth into one of falsehood, politics and discord, in daring to refuse the Holy Sacrament to all those who would take up arms in defence of their sacred rights." Another time, at the store of Walter & Baker, at Batoche, in a public meeting of the people, seeing that he was losing ground in consequence of the influence of the religious feeling of the poor people, he jumped up, his eyes flaming like the eyes of a veritable maniac, which gave him such a striking appearance that it forcibly impressed the people, he cried: "How can these poor people, whom you try to deceive and mislead as to the truth of my divine mission, for one moment believe you when they have the proof before them that you are a traitor to them, and you are unworthy of their confidence? How dare you say that it is a crime to take up arms against the tyrant in defence of their rights?" I replied to him: "Yes; I said it often before, and I repeat it here to your face, and in the face of these poor misguided people whom you are leading to destruction, despair and death, it is a crime to take up arms against the constituted authorities; it is a crime to raise the standard of rebellion. God proclaims it the duty of all Christian people to render to Cæsar the things that are Cæsar's, and to God the things are God's." He, Riel, replied: "Yes, render to God glory, honor and adoration, but to the tyrants of the world render that which is due to them; sling back their authority, which they have usurped, in their teeth; tumble them down from power, that is what God orders." "Listen", cried he, "to this priest who dares to tell you that it is a crime you are committing, under my direction, in fulfilment of my sacred mission, who dares to call rebellion your taking up arms in a sacred cause, a cause ordained and directed by God, the cause of your native land which lies bleeding and prostrated at the feet of tyrants, the sacred cause of the rights, the liberties, the lives of your wives and children for all time to come."

5. To impress the people and keep them within his power, this man, Riel, resorted to all kinds of trickery. Often have I seen him praying aloud, prostrating himself in prayer and ordering all the others to do so. Thus he made a deep impression on his poor ignorant dupes and so convinced them of his divine mission that it was impossible to convince them that he was a trickster and would lead them to destruction. Riel so played on their ignorance that he made them believe in his power to work miracles; they firmly believed this. I have heard them say that Riel could make it thunder and could cure disease without medicines. Riel himself, declared that he was once the victim of an incurable disease of the heart, but that on the 24th

of May he had cured the disease by his divine power. He also declared that should he be killed it did not matter, he would be with them again alive and that would prove to them his divine mission. He cried, "it is the Holy Ghost that speaks, who shall dare disbelieve me?"

6. When Riel had completely fascinated these poor people, and held them body and soul at his will, he next, to complete his object and plunge them into rebellion beyond recall, he announced that 500 mounted police were on the way to slaughter them: men, women and children, to the last one. "Oh, my friends, look at those devils murdering your whole nation, see your wives and daughters ravished before your streaming eyes, see your wives and children tortured, dishonored, disembowelled, cut in pieces by those savage soldiers, who are paid and kept by tyrants to kill, slaughter and dishonor the half-breed nation." "To arms, to arms, or will you crouch and submit? God tells you to follow me. The Holy Ghost is with you in my person; courage, we will conquer." Oh, my poor people, I could not restrain them; they were under the infatuation of this arch actor and trickster till he got them committed by the effusion of blood; then they were in his power, and he used that power without any feeling of mercy. I heard him say and proclaim, "Death, death, death, to anyone who tries to desert," and many of the poor people had guns pointed at their hearts, by Riel's orders, because he suspected them of wishing to get away, and to complete his terrorism over the poor people he declared it to be his determination to put me thus, deponent, in the front of the battle.

I knew Phillip Garnot, I saw him among the people in the rebel camp, but I am certain he did not take any part with Riel until the 21st or thereabouts. I spoke to him and expostulated with him on being among the misguided people. "What can I do?" said he, "I am forced to be here, my life would be taken did I refuse to appear to act at least, and now I must do all I can to save the lives of the poor people who are shut up in Battleford, that is what consoles me in this dreadful affair; I may prevent the attack or give timely warning to save the lives of the Canadians." And I sincerely believe that Garnot was acting under compulsion and in fear of his own life; also, I know that he was always good and kind to the prisoners while they were in his power or within his reach or succor, and he was always kind and considerate and polite to myself, unlike Dumont, Riel and others, who were threatening, brutal and insulting towards me.

7. I also declare that during the trouble I had conversations with several of the persons who were in the rebel camp with Riel, and I found a large number of them there against their will, and only remained there because of the fear of being shot down did they try to escape or desert, as sentence of death had been proclaimed against all persons who would try and get away. I wish to particularly mention Maxime Lepine, Moise Ouellette, Pierre Baronteau, Emmanuel Champagne, and as I before mentioned, Philip Garnot, all of whom I firmly believe were kept in the rebel camp through terror of their own lives and for fear of their families being punished, should they attempt to escape.

8. Alexander Fisher, I can positively say, would have escaped while at St. Laurent, but for the fact that he had his two little daughters in the convent school there, but feared the vengeance of Riel should he escape. I saw Fisher from day to day. He never had arms or did he take any interest or part in Riel's acts or proceedings except when forced to do so, and I knew that in simple derision he once signed a paper as Lieutenant-Governor of the North-West Territories, and told me the next time he met me, and I laughed with him at the joke, for it was nothing else. Riel always compelled lukewarm persons to commit themselves if possible in writing. Fisher knew this, and in derision and to mark his contempt for which he was compelled to sign, wrote himself Lieutenant-Governor of the North-West.

9. In conclusion, as an humble and old servant of God, and as one who has been seventeen years among the half-breeds of this country, who knows their simplicity, how easily they are led away by designing and conscienceless people, such as this man Riel, who being one of themselves, who was looked upon as their born and natural leader, one who knows well that the poor ignorant half-breeds were encouraged on.

from step to step in the late uprising till their false white pretended friends and their English fellow half-breeds left them on the very verge of rebellion and bloodshed; in the name of God, I, His most humble servant, in the agony of my aged and suffering heart, cry aloud to the judge before whom these poor deluded, deceived half-breeds have to appear for sentence, mercy! Oh, earthly judge, in the name of the great Judge in Heaven, from whose sacred lips the proclamation of mercy as He expired on the cross of salvation was given to the world—in His name, mercy.

V. FOURMOND.

Sworn and acknowledged before me at Regina,
in the North-West Territories, this 7th day
of August, A.D. 1885.

CHAS. NOLIN, *Justice of the Peace in and for the North-West Territories.*

THE QUEEN vs. MAXIME LEPINE.

CANADA.

North-West Territories,

To wit:

I, Charles Nolin, of St. Laurent Parish, in the North-West Territories, contractor, make oath and say:

1. When the rebellion began said Lepine was off on a freighting trip from Troy to Prince Albert, and on the 19th of March last past, by threatening and opposing Louis Riel, at the imminent risk of his, the said Lepine's own life, saved mine, and afterwards, on the 21st day of March and other days, prevented, in the same manner, the massacre of other persons whom the said Riel had made prisoners and wished to take the lives of.

2. On the night that said Lepine and myself were sent to demand the surrender of Fort Carlton by Major Crozier, said Riel in a speech incited the people saying, "Now is the time, let us go and take Carlton; let us go and avenge the death of Goulet (meaning the Goulet who lost his life in the year 1870, after the arrival of the troops at Fort Garry), and the said Maxime Lepine and Moïse Onellette (now awaiting sentence for treason-felony) were the men who, at the imminent risk of their own lives, interposed between the said Riel and the excited people, and prevented a midnight attack on Fort Carlton, which might have resulted in a fearful massacre.

3. I heard said Lepine often say that the rebellion would not have begun had he been at home.

4. On the Sunday before the battle of Duck Lake, Riel ordered Lepine to go with a party to take Lieutenant-Governor Dewdney prisoner (it having been reported that the Governor was on his way north with Colonel Irvine), and Lepine positively refused to go; or to be a party to such an outrage, whereupon Dumont said, "I will go and take him prisoner, and if necessary will wash my hands in his blood."

5. Two hours before the fight at Duck Lake I had a very serious conversation with said Lepine, in the course of which I said to him that from the appearance of things I feared that there would be bloodshed before many hours, and that I was determined to escape as I would not under any circumstances be present at any act of blood. Lepine replied: "I also from my soul condemn the very thought of any blood being spilled, Riel has most solemnly pledged himself to me that no blood will be spilled. I have confidence in his promises in that respect, and I believe it to be my duty, even at personal risk and danger, to remain here and prevent bloodshed should Riel prove false in his pledges to me." And I thus depose, and am fully convinced that Lepine was actuated by the humane motive of preventing bloodshed by remaining in the rebel camp.

6. When I escaped he solemnly declared that he would not fight nor countenance any fighting, nor would he ever take up arms.

CHAS. NOLIN.

Sworn before me at Regina, in the said
Territories, this 7th day of August,
A.D. 1885.

HY. LEJEUNE, *a Justice of the Peace in and for the North-West Territories.*

THE QUEEN vs. ALEXANDER P. FISHER.

CANADA:
North-West Territories, }
To wit: }

I, Charles Nolin, of St. Laurent Parish, in the North-West Territories, contractor, make oath and say:

1. That Alexander P. Fisher, above mentioned, was sent for by Louis Riel on or about the twenty-first day of March last past, who directed four or five armed men to go and bring him, the said Fisher, to the Council, and the said four or five men whose names are not known to me brought said Fisher by force, to the place where said council held its meetings at that time, from, as I believe, his own house.

2. The said Fisher was then a widower, and his three children were at the Sisters' school at said St. Laurent, and the said Fisher had a valuable cable and ferry boat at Batocho.

3. On the twenty-fifth day of March, Albert Monkman, Baptiste Boyer, William Boyer, George Fisher, the younger, and said Alexander P. Fisher and myself, made a secret compact at the house of said Baptiste Boyer, that each and every of us would escape, and thereafter could not escape for want of a horse, and for other reasons which prevented his escape.

4. The said Alexander P. Fisher was, to my certain and personal knowledge, always opposed to the rebellion, and that every act done by him up to that time (25th March, 1885), in the rebellion, was done when forced by Riel to do the same, and that his refusal would have endangered his life.

CHAS. NOLIN.

Sworn before me at Regina, in said
Territories, this 7th day of
August, A.D. 1885.

HY. LEJEUNE, a Justice of the Peace in and for the said Territories.

THE QUEEN vs. JOSEPH ARCAND, ALEXANDER CADIEUX AND OTHERS.

CANADA:
North-West Territories, }
To wit: }

I, Robert Jefferson, of Battleford, in the North-West Territories, farm instructor, make oath and say:

1. That Arcand and Cadieux, above mentioned, were at Battleford during the latter part of the rebellion for the purpose of standing between the Indians on one side and the half-breeds and teamsters and other white people on the other, and they did nothing else during their stay in the camp.

2. I saw Alexander Cadieux, above mentioned, alias "Kitty-way-hoe," standing at the door of the tent of the scout Fontaine a prisoner about the sixth day of May last past, and keeping the Indians away from the said tent.

3. That the said Arcand and Cadieux, while in said camp, did nothing criminal or disloyal, on the contrary their actions were all on the side of humanity and order.

ROBERT JEFFERSON.

Sworn before me at Regina, in said
Territories, this 11th day of
August, A.D. 1885.

HY. LEJEUNE, a Justice of the Peace in and for the North-West Territories.

THE QUEEN vs. ALBERT MONKMAN.

CANADA :
 North-West Territories, }
 To wit:

I, Charles Nolin, of St. Laurent Parish, in the North-West Territories, contractor, make oath and say:

1. On the nineteenth day of March last past, Louis Riel caused my arrest and trial before himself and associates, and the said Albert Monkman spoke in English to said Riel very strongly against the course he had taken in causing my arrest, and against any further steps or any trial taking place, and afterwards, when Riel and Gabriel Dumont urged the people to condemn me to death, said Monkman, both at that time, and after such trial, opposed Riel with all his might.

2. The said Monkman, when afterwards sent with me and a guard of twenty men to ask the English half-breeds to join the rebels, did not advise them to go, but, on the contrary, advised them to remain at home, as he was anxious to hinder and prevent any attack upon Fort Carlton and thereby prevent bloodshed.

3. The said Monkman was most anxious to escape at that time, but wished to release the prisoners first, which he stated he was able to do or expected to be able to do.

4. On the twenty-sixth day of March last past, before the Battle of Duck Lake, he, the said Monkman, tried to allow the prisoners then at Duck Lake to escape, and nearly succeeded in doing so.

CHAS. NOLIN.

Sworn before me at Regina, in said
 Territories, this 7th day of }
 August, A.D. 1885.

HY. LEJEUNE, *a Justice of the Peace for the said Territories.*

THE QUEEN vs. EMMANUEL CHAMPAGNE.

CANADA :
 North-West Territories, }
 To wit:

I, Charles Nolin, of St. Laurent Parish, in the North-West Territories, contractor, make oath and say:

1. That Emmanuel Champagne above named returned to his home at Batoche, in said Territories, on or about the twenty-first day of March last past, and that during his absence he had been made a councillor in Riel's provisional government.

2. He directed his name to be erased from the list of said councillors at once on hearing of same, which was not, however, done and said to me that he was against having anything to do with the rebellion, and that his age should have prevented his being forced to take part in same.

3. He was not a participant in the battle at Duck Lake, nor in the robberies, which, up to that time, had taken place, nor had he up to that time taken any part in the illegal measures of said council.

4. He resided only about one-half of a mile from the place where said council then held its sittings, and was at home except when sent for and compelled to go to said sittings by Riel's agents.

CHAS. NOLIN.

Sworn before me at Regina, this
 7th day of August, A. D. }
 1885.

HY. LEJEUNE, *a Justice of the Peace in and for said Territories.*

THE QUEEN vs. ALBERT MONKMAN AND OTHERS.

CANADA :
 North-West Territories, }
 To wit:

I, Vital Fourmond, of St. Laurent, in the North-West Territories, priest, make oath and say:

1. That said Albert Monkman during the rebellion tried to escape from Batoche and to desert from the camp of Riel, but was discovered in the act of doing so and was thereafter made a prisoner by the rebels, and was thereafter until the end of the rebellion a prisoner of Riel's.

V. FOURMOND.

Sworn before me at Regina, in the
 North-West Territories, this }
 7th day of August, A.D. 1885.

CHAS. NOLIN, *a Justice of the Peace in and for said Territories.*

THE QUEEN vs. FRANCIS TOUROND AND PATRICE TOUROND.

CANADA :
 North-West Territories. }
 To wit:

I, Roger Goulet, of Batoche, in the North-West Territories, farmer, make oath and say:

1. From the twentieth day of March last past to the thirteenth day of April last past, Francis Tourond, above mentioned, was not at Batoche in said Territories, but was at his mother's house, near Fish Creek, and never went to said Batoche until the time of the battle of Fish Creek.

2. About the twenty-third day of March last past, Louis Riel came to the church where the people were assembled and told them: "You will go to Garnot's and get the prisoners and give them over to the Indians to kill them to-night; also the two prisoners at Solomon Venn's, but you will see that the Indians do not torture them." Then Patrice Tourond stepped forward and said: "If you kill those men you must kill me first." Riel then said in a kind of huff: "Tout Tourond" meaning your name is all round and you will remain all round.

3. I have known both of said Touronds over seven years and they have always been sober, honest men and were of the best men in the North-West.

ROGER GOULET.

Sworn before me at Regina, in said
 Territories, this 7th day of }
 August, A.D. 1885.

CHAS. NOLIN, J. P., *a Justice of the Peace in and for the said Territories.*

THE QUEEN vs. ALBERT MONKMAN AND OTHERS.

CANADA :
 North-West Territories, }
 To wit:

I, Charles Newitt, of Prince Albert, in the North-West Territories, merchant's clerk, make oath and say:

1. I was wounded and left on the field of the battle of Duck Lake, and shortly after the said Albert Monkman came to me and said he was sorry that the battle had taken place and that I had been wounded, and he offered to do all that he could for my comfort, and afterwards came to me every day. I was in the rebel camp from the twenty-sixth to the thirtieth day of March last past, he offering me the same assistance.

2. He said, after the battle, that he would go to the Council and try to get the other prisoners as well as myself off, and a while afterwards he returned to me saying that he had got the consent of the Council to my being let off, and thought he had succeeded in getting their consent to letting all the others off, except Lash and Ross, whom the other members of the Council would not let off because they were officers of the Government; he appeared to be one of the best of the whole lot while I was there.

3. After I was taken up stairs at Duck Lake he came to us and told us (the prisoners) to keep away from the windows for fear that the Indians would shoot us.

CHARLES NEWITT.

Sworn before me at Regina, this }
12th day of August, A. D. }
1885.

OWEN HUGHES, *a Justice of the Peace in and for the North-West Territories.*

THE QUEEN vs. PHILIP GARIEPIE AND OTHERS.

CANADA: }
North-West Territories, }
To wit: }

I, Eleazer Swain, of Batoche, in the North-West Territories of Canada, farmer, make oath and say:

1. That immediately after the fight at Duck Lake I arrived upon the ground, and there saw Philip Gariepie and a number of others near to where Charles Newitt was then sitting.

2. Newitt appeared to have been wounded, and exhibited signs of having been struck upon the forehead and hand, and a conversation was going on among those about as to the cause. I heard it stated by several of these people, who were half-breeds and Indians, that the said Newitt had been struck in the manner above mentioned by an Indian.

His
ELEAZER X SWAIN.
Mark.

Sworn before me at Regina, in said Terri- }
tories, this 6th day of August, A.D. }
1885, after having been first read and }
then explained to the deponent, who }
made his mark thereto in my presence. }

HUGH RICHARDSON, *Stipendiary Magistrate for the North-West Territories.*

THE QUEEN vs. EMMANUEL CHAMPAGNE.

CANADA: }
North-West Territories, }
To wit: }

I, Thomas McKay, of Prince Albert, in the North-West Territories, Esquire, make oath and say: That I am well acquainted with Emmandel Champagne, who has always borne a good character up to the time of the rebellion, and who interposed to save my life, as I have already deposed in the case of the Queen vs. Louis Riel.

THOMAS MCKAY.

Sworn before me at Regina, in }
the said Territories, this 7th }
day of August, A.D. 1885. }

HY. LEJEUNE, *a Justice of the Peace in and for the said Territories.*

THE QUEEN vs. EMMANUEL CHAMPAGNE, ALEXANDER P. FISHER, PHILIP GARIEPIE, PIERRE GARIEPIE, PIERRE HENRI, MAXIME LEPINE, PIERRE PARENTEAU, MOISE PARENTEAU, JOSEPH PILON, BAPTISTE ROCHELEAU, FRANCIS TOUROND, PATRICE TOUROND, BAPTISTE VANDAL, PIERRE VANDAL AND JOSEPH ARCAND.

CANADA:
North-West Territories. }
To wit:

I, Hillyard Mitchell, of Duck Lake, in the North-West Territories, Esquire, make oath and say:

1. I have for some time been personally acquainted with each and every of the above named, Emmanuel Champagne and others, and have for several years been one of Her Majesty's justices of the peace in and for the said Territories.

2. From my personal knowledge of the above named, Emmanuel Champagne and others, I have no hesitation in stating that they had always been honest and peaceable inhabitants and law-abiding and loyal subjects of Her Majesty the Queen to the time of the late rebellion.

HILLYARD MITCHELL.

Sworn before me at Regina, in the }
North-West Territories, this 7th }
day of August, A.D. 1885.

CHAS. NOLIN, a Justice of the Peace in and for the said Territories.

THE QUEEN vs. EMMANUEL CHAMPAGNE, JOSEPH ARCAND, PIERRE HENRI, IGNACE POITRAS (THE ELDER), IGNACE POITRAS (THE YOUNGER), PIERRE PARENTEAU, MOISE PARENTEAU, JOSEPH PILON, BAPTISTE VANDAL, MOISE OUELLETTE, MAXIME LEPINE, ALBERT MONKMAN, MAXIME DUBOIS, ALEX. P. FISHER, PATRICE TOUROND AND FRANCIS TOUROND, *ET AL.*

CANADA.
North-West Territories. }
To wit:

We, Harold Edward Ross, Peter Tomkins, William Tomkins and Thomas Eastwood Jackson, all of Prince Albert District, in the said Territories, severally make oath and say:

1. That during the time of our imprisonment in the rebel camp at Batoche and vicinity we received considerate treatment and kindness from the above named defendants, Joseph Arcand and others, some of them supplying us with food, others of them protecting us as much as in their power lay from attacks of the Indians, cautioning us to keep away from the windows and doors for fear of being shot at by Indians and others, and generally exhibited a spirit of kindness and friendly feeling towards us. They also, many of them, stood between us and threatened death at the hands of Louis Riel, to the best of our information. We, therefore, feel it a duty, as Christian men, to recommend them in turn to the mercy of the court. We especially recommend Baptiste Vandal, Ignace Poitras, Joseph Pilon, Baptiste Rocheleau, Albert Monkman, Alexander P. Fisher, Emmanuel Champagne and Patrice Tourond to the mercy of the court for their marked humanity and kindness to us while in prison. And this declaration on our part is not a new-born feeling. Whilst we were prisoners we mutually determined, should we escape with our lives, that, should these men, in turn, be arrested and imprisoned, and put upon their trial, that we, in gratitude for their kindness, would not fail to come forward

and give evidence on their behalf, which we now do, and we earnestly recommend them to the consideration and mercy of their judge.

HAROLD E. ROSS,
PETER TOMKINS,
WILLIAM TOMKINS,
THOS. E. JACKSON.

Sworn before me and acknowledged by the
deponents, Harold Edward Ross, Peter
Tomkins, William Tomkins and Thos.
Eastwood Jackson, at Regina, in said
Territories, this 7th day of August,
A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN vs. MAXIME DUBOIS.

CANADA :
North-West Territories, }
To wit :

I, George Ness, of Batoche, in the North-West Territories, contractor, make oath and say :

That Maxime Dubois, above named, frequently told me during the rebellion that he was desirous of escaping and would do so were it not for his wife and family of five or six children, and to the best of my knowledge, information and belief, he took a very minor part in the rebellion and would not have done anything at all had he not been forced to do so on peril of his life.

GEORGE NESS.

Sworn before me at Regina, in the
said Territories, this 7th day of
August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN vs. JOSEPH PILON.

CANADA :
North-West Territories, }
To wit :

I, George Ness, of Batoche, in the North-West Territories, farmer, make oath and say : That I have good reason to believe and do verily believe that Joseph Pilon, above named, tried to avoid being connected with the rebellion of 1885 by hiding and in other divers ways, and that had it not been for his wife and family of eleven children, would have succeeded in so doing, and would not be in prison to-day. The said Pilon resided for several years near where my residence then was, and I had the best opportunity for arriving at the above belief.

The said Pilon took a very minor part in said rebellion, and that on peril of his life and against his will.

GEORGE NESS.

Sworn before me at Regina, in
said Territories, this 7th day
of August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN *vs.* MOISE PARENTEAU AND BAPTISTE VANDAL.

CANADA :
North-West Territories, }
To wit:

I, George Ness, of Batoche, in the North-West Territories, farmer, make oath and say:

1. That Moise Parenteau, above named, and Baptiste Vandal, above named, were very kind to the prisoners, on or about the twenty-first day of March last past, and, I believe, took a very minor part in the rebellion and not of their own free will.

GEORGE NESS.

Sworn before me at Regina, in }
said Territories, the 7th day }
of August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN *vs.* ALEXANDER P. FISHER AND PHILIP GARNOT.

CANADA :
North-West Territories, }
To wit:

I, Louis Marion, of Duck Lake, in the North-West Territories, freighter, make oath and say:

1. That Alexander P. Fisher, above mentioned, was a prisoner at large, and not under arms from eighteenth to twentieth March last past, staying at home, except when sent for by Louis Riel and brought by force to Batoche, in said Territories, across the river from his home.

2. That Philip Garnot, above mentioned, had no connection with the rebellion until the twentieth day of March last past, or thereabout, when he was brought by force from his boarding house to the church, both at Batoche and in said Territories, and he began to act as secretary, taking no personal or individual part in the doings of the Council, but merely acting as a scribe to the Council.

LOUIS MARION.

Sworn before me at Regina, in said }
Territories, this 7th day of }
August, A.D. 1885.

CHARLES NOLIN, *a Justice of the Peace in and for the said Territories.*

THE QUEEN *vs.* ALEXANDER P. FISHER.

CANADA :
North-West Territories, }
To wit:

I, George Ness, of Batoche, in the North-West Territories, farmer, make oath and say:

1. That the said Alexander P. Fisher, on or about the 27th day of March last past, informed me that he was against the rebellion, and had tried to escape, but failed to do so, and that he would not be there at all had it not been for his children.

2. To the best of my knowledge, information and belief, he did not, of his own free will during the whole rebellion, commit any rebellious or treasonable act, but at the risk of his life and in the presence of and under superior force.

GEORGE NESS.

Sworn before me at Regina, in the said }
Territories, this 7th day of August, }
A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN vs ALEXANDER P. FISHER AND OTHERS.

CANADA :
 North-West Territories. }
 To wit:

I, Harry Walters, of Prince Albert, in the North-West Territories, merchant, make oath and say:

1. That Alexander P. Fisher, above named, was, during the time I was a prisoner of Riel's from the 18th to the 21st day of March last past, a prisoner at large of said Riel's and informed me that he only wished to protect his property there, and I believe that he tried to prevent some of the rebels from getting any property stored in his house.

2. During that time he never carried arms of any kind.

H. WALTERS.

Sworn before me at Regina, in
 said Territories, this 7th
 day of August, A.D. 1885. }

J. ANSDALL MACRAE, *Justice of the Peace in and for North-West Territories.*

THE QUEEN vs. ALEXANDER P. FISHER.

CANADA :
 North-West Territories. }
 To wit:

I, Hillyard Mitchell, of Duck Lake, in the North-West Territories, merchant, make oath and say:

1. I have well known Fisher during the last nine years, and he is a faithful, honest man, and I have never heard him utter a sentiment of disloyalty.

2. On or about 20th day of March last past he informed me he was a prisoner at large of Louis Riel's at Batoche, taking no part in the rebellion, and said he would leave but wanted to stay to care for his family and property, and to the best of my knowledge, information and belief he was a bitter enemy of the said Riel from the time the said Riel came to the country on and until the breaking out of the rebellion, and never was by his own free will a rebel, and only allowed himself to be used in the movement from a natural weakness for absurdity and being laughed at, and not from any evil or criminal intention.

HILLYARD MITCHELL.

Sworn before me at Regina, in the
 said Territories, this 7th day of
 August, 1885. }

H.Y. LEJEUNE, *a Justice of the Peace in and for the said Territories.*

THE QUEEN vs. IGNACE POITRAS, THE ELDER, BAPTISTE VANDAL,
 PHILIP GARIEPIE, PIERRE GARIEPIE, ALEXANDER P. FISHER,
 MAXIME LEPINE, MOISE OUELLETTE, PIERRE PARENTEAU AND
 EMMANUEL CHAMPAGNE.

CANADA :
 North-West Territories, }
 To wit:

I, Thomas McKay, of Prince Albert, in the North-West Territories, Esquire, make oath and say:—

1. I have been for some time personally acquainted with each and every of the above named, Ignace Poitras, the elder, and others, and have, during a long time past, been a magistrate in and for the said Territories.

2. From my personal knowledge of the above named parties I have no hesitation in saying that they have always enjoyed the reputation of being honest and peace-

able inhabitants, and I had ever recognized them as law-abiding and loyal citizens of Her Majesty the Queen at the time of the late rebellion.

THOMAS MCKAY.

Sworn before me at Regina, in
the said Territories, this 7th
day of August, A.D., 1885.

HILLYARD MITCHELL, a Justice of the Peace in and for the said Territories.

THE QUEEN vs. JOSEPH ARCAD, ALEXANDER CADIEUX, AND
OTHERS.

CANADA:
North-West Territories,
To wit:

I, Louis Cochin, of Battleford, in the North-West Territories, priest, being duly sworn, depose and say:

1. I was a prisoner in the camp of Poundmaker from about the twelfth of April till about the sixteenth of May, or to the time of Riel's surrender, the news of which reached us four days later.

2. I saw Joseph Arcand, who is well known to me, for the first time among those in the camp on the third of May; it was Sunday, about seven o'clock in the evening. The said Arcand had, I understood, just arrived with others from Batoche, whence they had been sent by Riel to protect the prisoners from the savages.

3. Joseph Arcand was one of the most ardent of the half-breeds in protecting the prisoners from being killed, maltreated or robbed by the savages; he was always on the watch to guard the prisoners from danger, and I was indebted to him for his devoted protection of myself from danger and annoyance. I passed nearly half the time with him and he never used one solitary expression of disloyalty towards the Government, nor did he ever commit any hostile act; he occupied himself altogether in attending to the safety of the prisoners, white and half-breed, in the camp.

4. It was Joseph Arcand who was specially active and successful in saving the life of one of the white prisoners, a teamster, who is I believe at present in Regina. Arcand also protected a scout named Fontaine from threatened death at the hands of the Assiniboines, that same scout Fontaine who so ungratefully accused his protectors on his return to Battleford. This fellow Fontaine, to my personal knowledge, is totally unworthy of any belief, he is well known as a gaol bird, and in fact was liberated from gaol to become a scout. Joseph Arcand had left Poundmaker's camp three days before we heard of the battle at Batoche.

5. Pierre Vandal came to Poundmaker's camp at the same time with Arcand. This young fellow seemed to be a follower of the others simply through curiosity as a companion of some of the other half-breeds, and when he mounted guard with the others it was for the sole and only purpose of protecting the prisoners from the savages, who were only prevented from falling upon the prisoners by the most devoted and active efforts of the half-breed guards. I often passed hours with this young man Vandal and conversed with him and spoke to him in condemnation of Riel, and in favor of the Government, to which he assented and often condemned the rebellion. During all the time he was in the camp he positively did nothing but protect, to the very best of his power, the prisoners, white and half-breeds, from the savages, to which he devoted his whole attention; his conduct was invariably praiseworthy and kind. I am bound in conscience and gratitude to accord to him my best thanks and strong recommendation.

Alexander Cadieux, alias "Kitty-way-hoe," came to the camp with the others above mentioned. He is a pure savage, but has lived among the half-breeds, and is very ignorant. He has a great deal of influence with the savages, and through that influence he was enabled to save the lives of the teamster prisoners who were on the point of being killed by the Indians, who were very furious and determined. As one whose life was saved by the combined exertions and devotion of these poor men, when life was every moment in danger, I cannot sufficiently express my thanks to God and my gratitude to these poor men, and pray at the hands of the judge who is

to pass the sentence of the law upon them, a merciful view of any fault they may have ignorantly committed, in view of the fact that they risked their own lives to save the lives of Her Majesty's subjects—men, women and children—from the fury of the savages.

L. COCHIN.

Sworn to and acknowledged before me,
at Regina, in the North-West Ter-
ritories aforesaid, this 13th day of
August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

THE QUEEN vs. ALBERT MONKMAN, MAXIME LEPINE AND BAPTISTE
VANDAL AND ALEXANDER P. FISHER AND PHILIP GARNOT.

CANADA:
North-West Territories, }
To wit:

I, Thomas Sanderson, of Carrot River Settlement, in the North-West Territories, farmer, make oath and say:

1. The night of the twenty-first day of March last past, when I was arrested and made a prisoner, Albert Monkman came to me evincing a friendly feeling, asked me my name and where I lived; he then asked me what I intended to say to Louis Riel, when I would be brought before him. I answered that I was determined to give my mind fully to Riel, to condemn him and his actions strongly and to tell him that the man who was accused of being the murderer of Scott, in former days was not one who should attempt to plunge the half-breeds into revolution, which would lead to disaster and death. Monkman said, "for God's sake, if you value your own life don't do that, temporize with him rather than irritate him, which may lead to the loss of your life, as I know that you stand in very great danger, because of the feeling against the Carrot River settlers generally, and against you in particular." He cautioned me not to speak to him or appear friendly in the presence of Riel, for, said he, "I am already suspected by Riel, but be assured that I will do everything in my power for you." Next when the release of the prisoners, Peter Tomkins, William Tomkins, John W. Astley and Newitt was under consideration Monkman advocated and pleaded for their release before Riel and the council at Duck Lake; and in consequence of Monkman's advocacy strongly expressed, and the strongly expressed advice of Maxime Lepine and Baptiste Vandal, who sided with and supported Monkman on behalf of the prisoners, it was carried that the prisoners should be liberated, but Dumont opposed it, whereupon Riel ordered Monkman to saddle a horse and go to Carlton, as I firmly believe, for the purpose of getting him away, and the consequence was, the prisoners were not released. In consequence of the conduct of Monkman, Lepine and Vandal, on behalf of the prisoners, I feel it a duty to strongly recommend them to the most favorable consideration and mercy of the court. I further state that Monkman declared to me, and he appeared to be sincere, that he would do anything in his power to prevent Riel from bringing the Indians into the rising, as he said if they were brought into it, bloodshed would follow. I believe that he did do all that he could in that respect, but I knew that he appeared to be suspected and watched by Riel, and he was kept as much as possible out of the way by being sent or ordered off from one place to another, and never appeared to have much opportunity of making himself heard in the Council. While I was a prisoner, Philip Garnot evinced a friendly feeling towards the other prisoners and myself, bringing us tobacco and books both at Duck Lake and Batoche. At Batoche we were in his house, as he stated by his request of Riel in our behalf, and we were all well fed and attended to by him while there.

THOMAS SANDERSON.

Sworn before me at Regina, in said
Territories, this 7th day of
August, A.D. 1885.

DIXIE WATSON, *Clerk of the Court.*

RETURN

(SUPPLEMENTARY, PARTIAL)

(52a)

To an ADDRESS of the HOUSE OF COMMONS, dated 5th March, 1886;—For copies of all documents forming the record in the cases of Her Majesty against the different parties tried in connection with the late Rebellion, including the Jury Lists, the names of the Jurors, the lists of the Jurors empannelled, the motions and affidavits filed, the evidence, the incidents of the trial, the charges of the Judge, the names of the Judges who tried the different cases, the names of the Counsel for the prosecution and for the defence, the pleas entered, the verdicts, and the sentences, and in short of every document whatever relating to the said trials.

By Command.

J. A. CHAPLEAU,

Department of the Secretary of State,
16th March, 1886.

Secretary of State.

DEPARTMENT OF JUSTICE, OTTAWA, 16th March, 1886.

As a supplementary partial return to an Address of the Honorable the House of Commons, dated the 5th inst., for copies of all documents forming the record in the cases of Her Majesty against the different parties tried in connection with the late rebellion, including the jury lists, the names of the jurors, the lists of all jurors empannelled, the motions and affidavits filed, the evidence, the incidents of the trial, the charges of the judge, the names of the judges who tried the different cases, the names of the counsel for the prosecution and defence, the pleas entered, the verdicts and the sentences, and in short, of every document whatever relating to said trials, the undersigned has the honor to transmit herewith transcripts of the records and proceedings in the eleven cases mentioned in the schedule hereto annexed.

A. POWER, for D.M.J.

SCHEDULE.

Further Return (in part) of all cases of Her Majesty against the different parties tried in connection with the late Rebellion.

Name.	Place.
1. Manachoon (Bad Arrow) and Kittimakegin (Miserable Man)...	Battleford.
2. Papuh-make-sick (Round the Sky).....	do
3. Pa-pa-mah-cha-kwayo (Wandering Spirit).....	do
4. Apis-chaskoos (Little Bear).....	do
5. Louison Mongrain,.....	do

Name.	Place.
6. Wah-wah-Nitch (Man without Blood).....	Battleford.
7. Ikta	do
8. Nabpae (Iron Body).....	do
9. Charles Ducharme <i>alias</i> Charlebois, and Wa-waa-seh-oween (Dressy Man).....	do

QUEEN vs. MANACHOOS (BAD ARROW), KITTIMAKEGIN (MISERABLE MAN.)

Copy of Record and Proceedings.

CANADA:
North-West Territories. }

The information and complaint of John Alfred Martin, of Battleford, in the North-West Territories of Canada, Sergeant in the North-West Mounted Police, taken the second day of October in the year of Our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's Stipendiary Magistrates in and for the said North-West Territories of Canada, who saith:

That Manachoos, otherwise called Bad Arrow and Kittimakegin, otherwise called Miserable Man, on the second day of April, in the year of Our Lord one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North-West Territories of Canada, aforesaid, did feloniously and wilfully, and of their malice aforethought, kill and murder one Charles Gouin against the form of the statute in such case made and provided, and against the peace of Our Lady the Queen her Crown and dignity.

J. A. MARTIN.

Signed before me the day, month and year }
first above mentioned at Battleford, in }
the North-West Territories of Canada. }
CHAS. B. ROULEAU,
Stipendiary Magistrate for N.W.T. }

CANADA,
North-West Territories, }
Saskatchewan District, }
Battleford Division. }

The second day of October in the year of our Lord one thousand eight hundred and eighty-five in the Saskatchewan district, Battleford division, in the North-West Territories of Canada;

Before Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada passed in the forty-third year of Her Majesty's reign and the amendments thereto, entitled: "An Act to amend and consolidate the several Acts relating to the North-West Territories;

Manachoos (Bad Arrow) and Kittimakegin (Miserable Man), two Cree Indians, of Frog Lake, in the North-West Territories aforesaid, who are now prisoners in close custody at Battleford aforesaid, stand charged this day before the said stipendiary magistrate sitting in public open court, assembled for the trial of the said Manachoos (Bad Arrow) and Kittimakegin (Miserable Man).

For that they the said Manachoos (Bad Arrow) and Kittimakegin (Miserable Man), on the second day of April, one thousand eight hundred and eighty-five, at the locality known as Frog Lake in the North-West Territories of Canada aforesaid, did feloniously and wilfully and of their malice aforethought, kill and murder one Charles Gouin, against the form of the statute in such case made and provided and against the peace of Our Lady the Queen, her Crown and dignity;

Being duly arraigned the prisoners to this indictment plead—Not guilty.

William McKay, Esq., after having been duly sworn, acted as interpreter.

William Sharpe, Esq., Barrister, represents the Crown.

The prisoners being asked whether they wished to be tried by the stipendiary Magistrate alone, or the stipendiary magistrate and a justice of the peace, with the intervention of a jury, make their option to be tried by the stipendiary magistrate alone.

With the consent of the prisoners their trial is fixed for the third day of October, 1885.

BATTLEFORD, 2nd October, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*

BATTLEFORD, 3rd October, 1885.

Present:—Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories; William Sharpe, Esq., Barrister, Crown prosecutor, and William Mackay, Esq., interpreter.

The case of the Queen *vs.* Manachoos (Bad Arrow) and Kittimakegin (Miserable Man), accused of murder, being called, was proceeded with.

Evidence of Prosecution

Toussaint, *alias* Calling Bull, a Cree Indian, being duly sworn, doth depose and say:—I was living at Frog Lake for about five years. I worked for Delaney, the Indian farm instructor. I was at Frog Lake at the time of the massacre. It was the third of the month, and three days after Sunday, in the spring of this year, early in the morning of that day I was in Pritchard's house. When I came out of the house I saw Indians all round, amongst them the two prisoners. Charles Gouin was coming from the direction where the sun rises towards me. When Charles Gouin saw Quinn fall after being shot, he turned back to retrace his steps, and the prisoner Manachoos (Bad Arrow) fired and shot Gouin, and he fell near the door of Pritchard's house. Charles Gouin fell first on his face; he turned round and supported himself on his elbow, then Kittimakegin (Miserable Man) came forward and shot him in the chest. He fell and choked a little while, and then ceased to move and died.

Cross-examined by one of the prisoners:—I repeat that I saw Manachoos (Bad Arrow) fire first at Gouin, and Kittimakegin (Miserable Man) came up and fired also at him, then Gouin fell dead. It was the two prisoners who killed Gouin.

The other prisoner states that he does not intend to ask questions, as the witness has told the truth.

NAOKESIEKOOKEYAISE (Four Sky Thunder) having solemnly affirmed to tell the truth, saith as follows:—

I was at Frog Lake at the time of the massacre. Manachoos told me that day that he shot Gouin, and that the letter fell down. I met Miserable Man before. I was living in the same tent. Miserable Man, the prisoner, told me that Bad Arrow, the other prisoner, fired at Gouin first, and that he had fired at him also. Gouin was lying on his side when Miserable Man shot him. Bad Arrow told me the same thing also. Miserable Man told me he was urged to do so by one of Big Bear's sons and Bad Arrow by Wandering Spirit. Miserable Man told me that Gouin was only wounded when he fired at him. He told me he had shot him in the right side of the chest.

The prisoners decline to cross-examine.

KAMANITOWAS (Idol) being duly sworn, saith as follows:—

I was present at the Frog Lake massacre. When I heard the first ^{or} shots fired I was with two other Indians near a root-house, close by Delaney's house. I then went in the direction of the shooting. When I came to Delaney's house I saw a white man lying at the door of Pritchard's house. I walked toward him and I heard him gasping. When I was very close I saw Miserable Man, one of the prisoners, fire at him. The white man was lying on his back. I did not see the flesh wound, but whatever was in the gun went into the body. I knew the white man's name. It was Charles Gouin (here the witness gives Gouin's Cree name). After the time Miserable man had fired I went to Gouin and I heard him and saw him gasping for breath. Then I went to John Pritchard's house. When I came out Gouin was dead.

The prisoners both state that the witness told the truth and decline to cross-examine him.

This closes the case on behalf of the Crown.

The prisoners declare they have no witnesses to examine.

The prisoners are declared guilty of murder by the stipendiary magistrate.

Sentence—Death.

The two prisoners, Manachoos (Bad Arrow) and Kittimakogin (Miserable Man), to be hanged by the neck till death follows, on the 27th day of November, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*

BATTLEFORD, 3rd October, 1885.

I hereby certify that the above is a correct copy of all the proceedings and evidence had and taken in said case.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*

BATTLEFORD, 5th October, 1885.

QUEEN vs. PAPUH-MAKE-SICK (ROUND THE SKY).

Copy of Record and Proceedings.

CANADA: }
North-West Territories. }

The information and complaint of John Alfred Martin, of Battleford, in the North-West Territories of Canada, Sergeant in the North-West Mounted Police, taken this thirtieth day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:

That Papuh-Make-Sick, otherwise called Round the Sky, on the second day of April, in the year of our Lord one thousand eight hundred and eighty-five at the locality known as Frog Lake, in the North-West Territories of Canada, aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one François Xavier Fatard, against the form of the statute in such cases made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

J. A. MARTIN.

Sworn before me the day, month and year }
above mentioned, at Battleford, in the }
North West Territories of Canada. }

CHARLES B. ROULEAU,

Stipendiary Magistrate for the North-West Territories.

CANADA, }
North-West Territories, }
Saskatchewan District, }
Battleford Division. }

The first day of October in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada.

Before Charles B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada passed in the forty-third year of Her Majesty's reign, and the amendments thereto, entitled: "An Act to amend and consolidate the several Acts relating to the North-West Territories;"

Papuh-Make-Sick (Round-the-Sky), a Cree Indian, who is now a prisoner in close custody at Battleford aforesaid, stands charged this day before me the said stipendiary magistrate, sitting in public open court, assembled for the trial of the said Papuh-Make-Sick (Round-the-Sky);

For that he the said Papuh-Make-Sick (Round-the-Sky) on the second day of April, one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North-West Territories of Canada, as aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one François Xavier Fafard, against the form of the statute in such case made and provided and against the peace of our Lady the Queen, her Crown and dignity.

Being duly arraigned the prisoner to this indictment pleads "not guilty."

William Mackay, Esq., after being duly sworn, acted as interpreter.

William Sharpe, Esq., barrister, represents the Crown.

The prisoner being asked whether he wishes to be tried by the stipendiary magistrate alone or by the stipendiary magistrate and a justice of the peace, with the intervention of a jury, makes option to be tried by the stipendiary magistrate alone.

Evidence for the Prosecution.

KOSIPEKANNEW (The Thunder) having solemnly affirmed to tell the truth sayeth as follows:—

I was present at the Frog Lake massacre three days before Easter Sunday, 1885. I saw the priest (Fafard) lying on the ground after being shot. The first time I saw him I was about thirty feet from him, and I went on in the same direction as some Indians who were following some white men. Afterwards I came back to where the priest was lying, and I saw the prisoner fire at the priest. The priest was lying on the ground on his face, and the prisoner fired at him on the crown of the head. The prisoner was almost over him. He held the muzzle of the gun quite close to his head. There were a number of Indians around. The Indians were saying that the priest was shamming—that he was not dead. I heard a number of shots fired before I saw Father Fafard lying on the ground. I saw Father Fafard move after he was lying on the ground. I heard him groan (here the witness imitates the sound he made) after the prisoner fired at him. I am positive of it. I was at the time about twenty feet from Father Fafard.

Cross-examined:—I was about twenty feet from the prisoner and the priest when I heard him groan.

OSASAWEOW (a Cree Indian) being duly sworn, doth depose and say:—

I was present at the Frog Lake massacre. Wandefing Spirit was the first man that fired at the priest, Father Fafard. The priest fell, and I went to look at him. He was lying on his face. I then bent over him and walked round him to see where the wound was. The wound was across the middle of the neck. The ball went through, and the blood was running. I saw also the blood running from his mouth and nose. I went away and came back and I saw Father Fafard lying on the ground. There were several Indians around him when I heard them say "He is still breathing." When I heard them say that, there was none very near him. Then Manachos, an Indian, told the prisoner to fire at the priest. Then the prisoner came and fired one shot on the crown of the head of the priest. I never saw the priest move or make any noise. I am first cousin to the prisoner. I was around a good deal with the prisoner that day.

The prisoner declines to cross-examine.

SAWAYON (a Cree Indian) being duly sworn, doth depose and say:—

I was present at the Frog Lake massacre. I heard some shots fired that day. I went from the camp in the direction of the firing. I saw one priest lying on the ground. That was the priest that came there recently. I then saw the other priest lying on the ground, and I went quite near him, and I saw blood running on the ground and I stepped back. He was breathing, because his back was moving up and down as a person breathing. He was lying on his face with his hands folded under his head. I saw the wound near the back of the neck and I saw the blood running. I thought the bullet had passed through the side of the neck. When the Indians came where Father Fafard was lying, Manachos said "He is still breathing, shoot him." The prisoner then stepped forward and shot the priest on the top of the head. The priest moved after the shot.

Cross-examined :—I went away as soon as the prisoner fired at the priest. I don't suppose that the prisoner took any notice of me. I heard only Manachoos say "shoot him."

This closes the evidence for the prosecution.

Evidence on behalf of Defence.

OSABAWEOW being re-called on behalf of the defence, says as follows :—

(The prisoner then declines to examine him, as he states he had told the truth in his examination for the prosecution.)

The prisoner declares he has no witnesses to examine.

This closes the case.

Prisoner declared guilty by the stipendiary magistrate.

Sentence—Death.

The prisoner to be hanged by the neck till death follows, on the 27th day of November, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*
BATTLEFORD, 1st October, 1885.

I hereby certify that the above is a correct copy of all the proceedings and evidence had and taken in said case.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*
BATTLEFORD, 5th October, 1885.

QUEEN vs. PA-PA-MAH-CHA-KWAYO (WANDERING SPIRIT).

Copy of Record and Proceedings.

CANADA :
North-West Territories. }

The information and complaint of Alexander David Stewart, of the city of Hamilton in the Province of Ontario and Dominion of Canada, chief of police, taken the 22nd day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith :

That Pa-pa-mah-cha-kwayo, otherwise called Wandering Spirit, on the second day of April, in the year of our Lord one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North-West Territories of Canada, aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one Thomas Quinn, against the form of the statute in such case made and, provided, and against the peace of our Lady the Queen, her Crown and dignity

A. D. STEWART.

Sworn before me the day, month and year }
above mentioned, at Battleford, in the }
North-West Territories of Canada. }

CHARLES B. ROULEAU,
Stipendiary Magistrate for the North-West Territories.

CANADA :
North-West Territories, }
Saskatchewan District, }
Battleford Division. }

The twenty-second day of September, in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada;

Before Charles B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of Par-

liament of Canada, passed in the forty-third year of Her Majesty's reign, and the amendment thereto, entitled: "An Act to amend and consolidate the several Acts relating to the North-West Territory;"

Pa-pa-mah-cha-kwayo (Wandering Spirit) a Cree Indian, of Frog Lake, in the North-West Territories of Canada, aforesaid, who is now a prisoner in close custody at Battleford aforesaid, stands charged this day before the said stipendiary magistrate sitting in public open court, assembled for the trial of the said Pa-pa-mah-cha-kwayo (Wandering Spirit);

For that he, the said Pa-pa-mah-cha-kwayo (Wandering Spirit), on the second day of April, one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North West Territories of Canada aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one Thomas Quinn, against the form of the statute in such case made and provided and against the peace of our Lady the Queen, her Crown and dignity.

After being duly arraigned the prisoner to this indictment pleads "guilty."

William Mackay, Esq., after having been duly sworn, acted as interpreter.

Sentence—Death.

Prisoner to be hanged by the neck till death follows, on Friday, the 27th day of November, one thousand eight hundred and eighty-five.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

BATTLEFORD, N. W. T., 22nd September, 1885.

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

QUEEN vs. APIS-CHASKOOS (LITTLE BEAR).

Copy of Record and Proceedings.

CANADA:

North-West Territories. }

The information and complaint of John Alfred Martin, of Battleford, North-West Territories, and Dominion of Canada, Sergeant in the North-West Mounted Police, taken the 9th day of October, in the year of Our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the North-West Territories aforesaid, who saith:

That Apischaskoos, otherwise called Little Bear, on the second day of April, one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North-West Territories of Canada aforesaid, did feloniously and wilfully, and of his own malice aforethought, kill and murder one George Dill, against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

J. A. MARTIN.

Sworn before me the day, month and year }
first above mentioned, at Battleford, in }
the North-West Territories of Canada. }

CHAS. B. ROULEAU,

Stipendiary Magistrate for the North-West Territories of Canada.

CANADA:

North-West Territories, }
Saskatchewan District, }
Battleford Division. }

The ninth day of October, in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada:

Before Charles B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parlia-

ment of Canada passed in the forty-third year of Her Majesty's reign and the amendments thereto, entitled: "An Act to amend and consolidate the several Acts relating to the North West Territories;"

Apischaskoos, otherwise called Little Bear, a Cree Indian, of Frog Lake, in the North-West Territories of Canada, aforesaid, who is now a prisoner in close custody at Battleford, aforesaid, stands charged this day before the said stipendiary magistrate sitting in public open court assembled, for the trial of the said Apischaskoos (Little Bear);

For that he, the said Apischaskoos (Little Bear) on the second day of April, one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North-West Territories aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one George Dill against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

Being duly arraigned the prisoner to this indictment pleads "not guilty."

William Mackay, Esq., being duly sworn, acted as interpreter.

William P. Sharpe, Esq., barrister, represents the Crown.

The prisoner, being asked whether he wishes to be tried by the stipendiary magistrate alone or by the stipendiary magistrate and a justice of the peace, with the intervention of a jury, makes option to be tried by the stipendiary magistrate alone.

The following evidence was adduced on behalf of the Crown:—

OAISAWEHOW, a Cree Indian, being duly sworn, doth depose and say:—

I know the prisoner. I saw him during the massacre at Frog Lake. He was on horseback that day riding amongst the houses. I saw him coming from the direction where the white men were fired at. The prisoner was armed. I saw Dill there that day. I saw him also after he was dead. He was killed by a bullet.

Prisoner declines to cross-examine.

KOPISIKINEW (Thunder), a Cree Indian, having solemnly affirmed to tell the truth, says as follows:—

I know the prisoner, and I saw him at Frog Lake the day of the massacre. The massacre took place about three days before Easter last. I saw him mounted and following the trader Dill, and I saw the prisoner firing two shots at Dill while he was mounted. There are four Indians whom I knew. These four Indians were firing. Dill fell while the firing was going on. It was the result of the shooting that caused Dill's death. I don't think he was sick before that.

Cross-examined:—It was when the last shot was fired that Dill fell.

KAMAMTOWAS a Cree Indian, being duly sworn, doth depose and say:—

I know the prisoner. When we were in the prison together the prisoner told me that he fired two shots at the trader (Dill) but that he missed him. The prisoner did not tell me where it was. The prisoner must have referred then to the Frog Lake massacre.

Prisoner declines to cross-examine.

This concluded the case for the Crown.

The prisoner declares he has no evidence to adduce, as the witnesses for the Crown stated what was true.

Prisoner declared guilty by the stipendiary magistrate.

Sentence—Death.

The prisoner to be hanged by the neck till death follows, on the twenty-seventh day of November, one thousand eight hundred and eighty-five.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*
BATTLEFORD, 9th October, 1885.

I certify that the above is a true copy of all the proceedings and evidence had and taken in this case.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

QUEEN vs. LOUISON MONGRAIN.

Copy of Record and Proceedings.

CANADA:
North-West Territories. }

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario, and Dominion of Canada, chief of police, taken the twenty-third day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories who saith :—

That Louison Mongrain and Wa-wa-se-he-wein, otherwise called Dressy Man, on the fifteenth day of April, in the year of our Lord one thousand eight hundred and eighty-five, at the locality known as Fort Pitt, in the North-West Territories of Canada aforesaid, did feloniously and wilfully, and of their malice aforethought, kill and murder one David Lattimer Cowan, against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

A. D. STEWART.

Sworn before me the day, month and year }
above mentioned at Battleford, in the }
North-West Territories of Canada. }

CHAS. B. ROULEAU,
Stipendiary Magistrate for the said North-West Territories.

CANADA:
North-West Territories, }
Saskatchewan District, }
Battleford Division. }

The twenty-third day of September, in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada:

Before Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada, passed in the forty-third year of Her Majesty's reign and the amendments thereto, intituled: "An Act to amend and consolidate the several Acts relating to the North-West Territories."

Louison Mongrain and Wa-wa-se-he-wein (Dressy Man) two Cree Indians of Frog Lake, in the North-West Territories of Canada aforesaid, who are now prisoners in close custody at Battleford aforesaid, stand charged this day before the said Stipendiary Magistrate, sitting in open court, assembled for the trial of the said Louison and Wa-wa-se-he-wein (Dressy Man).

For that they the said Louison Mongrain and Wa-wa-se-he-wein (Dressy Man) on the 15th day of April, one thousand eight hundred and eighty-five, at the locality known as Fort Pitt, in the North-West Territories of Canada aforesaid, did feloniously and wilfully, and of their malice aforethought, kill and murder one David Lattimer Cowan, against the form of the statute in such case made and provided and against the peace of our Lady the Queen, her Crown and dignity.

After being duly arraigned the prisoners to this indictment plead "not guilty."

William Mackay Esq., after being duly sworn, acted as interpreter. The prisoners elected to be tried by the stipendiary magistrate and a justice of the peace with the intervention of a jury.

The trial of said prisoners was fixed for the 25th of September, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

The case of the Queen vs. Nabpace *alias* Iron Body being called, is proceeded with and the following evidence is adduced.

Evidence on the part of the Crown.

OSISAWHOW, a Cree Indian, being duly sworn, doth depose and say:—

I know the prisoner. I belong to Puskeya-Kewino Band. The prisoner belongs to Big Bear's Band. I was present at Frog Lake during the time of the massacre. I saw Quinn and Gouin killed. I saw the prisoner there at that time. I did not see him do anything there at that time. The white people were near by walking towards the camp, followed by the prisoner and other Indians. The white people were not going to the camp of their own accord. The Indians whom I knew that were following the white people were Asik-Puskookyoo Mamekwesno, and the prisoner. They were armed. The white people were not armed. The white people were gathered together by Big Bear's Indians to the point where I saw them marching them off. The reason the white people were not armed is because their guns were taken from them by Big Bear's Indians that morning. George Dill was amongst the white people whom I saw marching off. I was standing then between John Pritchard's house and a storehouse. Afterwards I followed in the direction of the white people. I heard shots in that direction, and the first I saw lying on the ground were Delaney and Gowanlock. A little further on I saw the two priests lying. They were killed at that time. I saw three white people running. They were followed by some Indians. The white people were Williscraft, Gilchrist and George Dill. It was too far off for me to see who the Indians were that were following. I think there must have been three if not more. I saw Nabpace again in the tent. The whole time of the massacre did not last more than the time to smoke a pipe.

Prisoner declines to cross-examine.

KOPISKEKNEW (Thunder), having affirmed solemnly to tell the truth, says as follows:—

I know the prisoner. I was present at the Frog Lake massacre. I saw the prisoner there. I know a trader that was there (Dill), but I did not know him by his English name. I saw him together with other white men followed by Indians. The prisoner was one of the Indians. When I came in full view of the white people, while the firing by the Indians was going on, I saw two men running. It was the trader (Dill) and a young man (Gilchrist). There was a dog along with them. When I first saw the Indians running after them I could not recognize them, but when I got to the top of the ridge I saw but one white man, that was the trader (Dill). He turned round towards the Indians while they were firing at him. He appeared to have lost all hope. The Indians that were firing at him were Apischas-koos, Nabpace, the prisoner, Mamekwesew and Paskookyoo. I saw Nabpace, the prisoner, firing at Dill. During this firing I saw Dill fall. He was lying there dead.

Prisoner declines to cross-examine.

This closes the case for the Crown.

Evidence for the Defence.

APISCHASKOOS (Little Bear), being duly sworn, doth depose and say:—

I was present when the trader Dill was killed. I saw the white man turn round and the prisoner fired at him and knocked him down.

Crown declines to cross-examine.

KAMANIBOWAS, being duly sworn, doth depose and say:—

I did not hear that you killed the trader Dill. A brother of mine asked the prisoner how it was that he had not killed anybody. The prisoner answered that he had killed only one dog.

Crown declines to cross-examine.

This closes the evidence for the defence.

The prisoner declared guilty of murder by the stipendiary magistrate.

Sentence—Death.

KAPESINMOKOE (a Cree Indian) being duly sworn doth depose and say :—

I was present at Fort Pitt when Constable Cowan was killed. When I was coming down the brow of the hill at Fort Pitt, I saw the policeman that was killed. I saw him fall. Then I saw the prisoner, Louison Mongrain, arriving where Cowan was lying. I was quite close to Louison, the prisoner. The prisoner held his gun towards the policeman who raised his hands saying "don't brother, don't," and fired two shots at him in the front part of the head. I was awakened by the shots of the gun before. Louison Mongrain, the prisoner, is the only Indian I saw firing at Cowan when the latter was lying down.

Cross-examined :—Prisoner had on a helmet, a pair of trousers and a shirt, he had no blanket on. He had a twelve-shooter rifle. I was the next man to prisoner when he fired at Cowan.

ALFRED SMITH, of Fort Pitt, laborer, being duly sworn, deposeth and saith :—

I was a prisoner in Big Bear's camp during the month of April. I saw the body of Cowan the day after his death.

The prisoner declares that he has no questions to ask.

This closes the evidence of the Crown.

Evidence on behalf of the Prisoner.

MESINACHAPAYO, a Cree Indian, having declared solemnly to tell the truth, says as follows :—

I was standing about fifty feet from where Cowan was lying. I saw Mongrain there but I did not see him fire the shots.

Cross-examined :—I never heard the prisoner say that he had shot Cowan. I saw Mongrain there but I did not see him fire the shots.

Prisoner declares that he does not want to call any more witnesses.

The jury returned a verdict of guilty.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

P. C. PAMBRUN, J. P.

BATTLEFORD, 25th September, 1885.

Sentence, death.

Prisoner to be hanged by the neck until death follows, on the 22nd day of November, one thousand eight hundred and eighty-five.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

BATTLEFORD, 25th September, 1885.

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

QUEEN vs. WAH-WAH-NITCH (MAN WITHOUT BLOOD).

Copy of Record and Proceedings.

CANADA :
North-West Territories. }

The information and complaint of John Alfred Martin, of Battleford, in the North-West Territories and Dominion of Canada, sergeant in the North-West Mounted Police, taken the 5th day of October, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the North-West Territories of Canada, who saith :—

That Wah-wah-nitch, otherwise called Man Without Blood, on the 31st day of March, in the year of our Lord one thousand eight hundred and eighty-five, at the locality known as Dewan and Tremont's farm, in the North-West Territories of Canada aforesaid, did feloniously, and wilfully, and of his malice aforethought, kill and

murder one Bernard Tremont, against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

J. A. MARTIN.

Sworn before me the day, month and year }
first above mentioned at Battleford, in }
the North-West Territories of Canada. }

CHARLES B. ROULEAU,

Stipendiary Magistrate for the said North-West Territories.

CANADA: }
North-West Territories, }
Saskatchewan District, }
Battleford Division. }

The fifth day of October in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada;

Before Charles B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada, passed in the forty-third year of Her Majesty's reign, and the amendments thereto, entitled: "An Act to amend and consolidate the several Acts relating to the North-West Territories;"

Wah-wah-nitch (Man Without Blood) an Assiniboine Indian, of Battleford, in the North-West Territories of Canada, aforesaid, who is now a prisoner in close custody at Battleford, aforesaid, stands charged this day before the said stipendiary magistrate sitting in public open court, assembled for the trial of the said Wah-wah-nitch (Man Without Blood).

For that he the said Wah-wah nitch (Man Without Blood) on the thirty-first day of March, one thousand eight hundred and eighty-five, at the locality known as Dewan and Tremont's farm, in the North-West Territories of Canada, aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one Bernard Tremont against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

Being duly arraigned the prisoner to this indictment pleads "guilty."

John Edward Kelly being duly sworn, acted as interpreter.

Sentence—Death.

Prisoner to be hanged by the neck till death follows on Friday the twenty seventh day of November, one thousand eight hundred and eighty-five.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*
BATTLEFORD, N.W.T., 5th October, 1885.

I hereby certify that the above is a correct copy of all the proceedings and evidence had and taken in said case.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*
BATTLEFORD, N.W.T., 5th October, 1885.

QUEEN vs. IKTA.

Copy of Record and Proceedings.

CANADA: }
North-West Territories. }

The information and complaint of John Alfred Martin, of Battleford, in the North-West Territories, and Dominion of Canada, sergeant in the North-West Mounted Police, taken the 5th day of October, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith:

That Itka, on the thirtieth day of March, in the year of our Lord one thousand eight hundred and eighty-five, at the locality known as the Stoney Reserve, in the North-West Territories of Canada aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one James Payne, against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

J. A. MARTIN.

Sworn before me the day, month and year }
first above mentioned at Battleford, in }
the North-West Territories of Canada.

CHAS. B. ROULEAU,

A Stipendiary Magistrate for the said North-West Territories.

CANADA :

North-West Territories, }
Saskatchewan District, }
Battleford Division.

The fifth day of October, in the year of Our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada :

Before Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada, passed in the forty-third year of Her Majesty's reign, and the amendments thereto, entitled : "An Act to amend and consolidate the several Acts relating to the North-West Territories ;"

Itka, an Assiniboine Indian, of Battleford, in the North-West Territories of Canada aforesaid, who is now a prisoner in close custody at Battleford aforesaid, stands charged this day before the said stipendiary magistrate, sitting in public open court, assembled for the trial of the said Itka ;

For that he, the said Itka, on the thirtieth day of March, one thousand eight hundred and eighty-five, at the locality known as the Stoney Reserve, in the North-West Territories of Canada aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one James Payne, against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

Being duly arraigned, the prisoner to this indictment pleads "guilty."

John Edward Kelly, being duly sworn, acted as interpreter.

Sentence—Death.

Prisoner to be hanged by the neck till death follows, on Friday the twenty-seventh day of November, one thousand eight hundred and eighty-five.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*
BATTLEFORD, N.W.T., 5th October, 1885.

I do hereby certify that the above is a correct copy of all the proceedings and evidence had and taken in said case.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*
BATTLEFORD, 5th October, 1885.

QUEEN vs. NABPACE (IBON BODY).

Copy of Record and Proceedings.

CANADA :

North-West Territories. }

The information and complaint of John Alfred Martin, of Battleford, in the North-West Territories of Canada, sergeant in the North-West Mounted Police, taken

this eighth day of October, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the said North-West Territories of Canada, who saith :

That Nabpace, otherwise called Iron Body, on the 2nd day of April, in the year of our Lord one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North-West Territories of Canada aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one George Dill, against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

J. A. MARTIN.

Sworn before me the day, month and year first above-mentioned, at Battleford, in the North-West Territories of Canada.

CHAS. B. ROULEAU,

A Stipendiary Magistrate for the North-West Territories of Canada.

CANADA :

North-West Territories,
Saskatchewan District,
Battleford Division.

The eighth day of October, in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada :

Before Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada, passed in the forty-third year of Her Majesty's reign, and the amendments thereto, entitled : " An Act to amend and consolidate the several Acts relating to the North-West Territories : "

Nabpace, otherwise called Iron Body, a Cree Indian, of Frog Lake, in the North-West Territories of Canada aforesaid, who is now a prisoner in close custody at Battleford aforesaid, stands charged this day before the said stipendiary magistrate sitting in public open court, assembled for the trial of the said Nabpace *alias* Iron Body ;

For that he, the said Nabpace *alias* Iron Body, on the 2nd day of April, one thousand eight hundred and eighty-five, at the locality known as Frog Lake in the North-West Territories aforesaid, did feloniously and wilfully, and of his malice aforethought, kill and murder one George Dill, against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

Being duly arraigned, the prisoner to this indictment pleads " not guilty."

William Mackay, Esq., being duly sworn, acted as interpreter.

William P. Sharpe, Esq., barrister, represented the Crown.

The prisoner being asked whether he wishes to be tried by the stipendiary magistrate alone, or by the stipendiary magistrate and the justice of the peace with the intervention of a jury, makes option to be tried by the stipendiary magistrate alone.

Trial fixed for 9th October, 1885.

CHAS. B. ROULEAU,

Stipendiary Magistrate for the North-West Territories.

BATTLEFORD, 8th October, 1885.

BATTLEFORD, 9th October, 1885.

Present : Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories.

William P. Sharpe, Esq., barrister, Crown prosecutor, and William Mackay, Esq., interpreter.

BATTLEFORD, 25th September, 1885.

Present: Chas. B. Ronleau, Esq., stipendiary magistrate for the North-West Territories, and Pierre Chrysologue Pambrun, Esq., J.P., with the intervention of the following jurors who were duly sworn, to wit:

George W. Gairdner, 1; Alexander McKenzie, 2; J. F. D. Parker, 3; Jules Gagné 4; H. Millie, 5; Jonathan Rose, 6.

William Sharpe, Esq., represents the Crown.

On behalf of the Crown Mr. Sharpe enters a *nolle prosequi* in favor of the prisoner "Dressy Man."

Evidence of the Prosecution.

CLARENCE LOUSBY, a constable of the North-West Mounted Police, being duly sworn doth depose and say:—

On the fifteenth of April last (1885) I was at Fort Pitt. I started from Fort Pitt on the fourteenth to go to Frog Lake with Constable Cowan and Henry Quinn, to find out where Big Bear was. The next day we came back about half a mile from the fort. Big Bear and his band were camped on the top of the hill. Cowan and I kept together and were going towards the fort. When we crossed the bridge the Indians commenced firing at us. We did not fire at them before. By that firing Constable Cowan and I got wounded. I did not see Cowan when he fell off his horse.

Prisoner declines to cross examine.

JOHN ALFRED MARTIN, a sergeant in the North-West Mounted Police, being duly sworn, doth depose and say:—

I was at Fort Pitt, in the North-West Territories, on the 15th day of April last (1885). Big Bear and his band arrived there on the 14th of the same month and demanded a surrender of the fort. Before Cowan was shot there were no shots fired between the police and the Indians. About an hour before Cowan was shot, Mr. McLean, of the Hudson Bay Co., was negotiating with the Indians. The Indians had promised not to kill anyone if the police would surrender the fort. I saw Constable Cowan falling from his horse. There was considerable firing, both at Lousby and Cowan, at the time, by the Indians. Cowan was about 500 yards from the fort when he fell. About half an hour after Cowan fell I saw one Indian, about the size of the prisoner, with a white blanket on, fire a shot at Cowan, quite close to him, about a couple of yards. Before that shot was fired, two of the Indians felt whether Cowan was breathing or not.

Prisoner declines to cross-examine.

KASOWAKAYO, a Cree Indian, having solemnly affirmed to tell the truth, says as follows:—

I got into Big Bear's camp some time in May. I saw the prisoner, Louison Mongrain, and heard him say, "I wonder who killed Cowan?" I was the first who came to him when he was lying on his back; and Cowan put his hands up, saying, 'Don't, brother,' and I fired two shots at him." The prisoner did not state where the shots entered Cowan's body. There was a woman present when that conversation took place between me and the prisoner. I do not know her name.

Cross-examined.—The night Big Bear son's wife died is the night I had that conversation with the prisoner Mongrain.

TOUSSAINT, alias Calling Bull (a Cree Indian) being duly sworn, doth depose and say:—

I know the prisoner. I heard the prisoner talking about the death of Cowan at Fort Pitt. It was just a short time after he was killed. Prisoner Mongrain said "that the policeman was killed. I went up to him and he raised his hands, and when I went to fire at him he said 'don't brother' and I fired two shots at his head." Prisoner did not tell me that, but I was near by and I heard him tell the other Indians.

Cross-examined.—That the conversation took place at the prisoner's fireplace. I am unable to tell how many Indians were present. I do not think there were many women present.

The prisoner to be hanged by the neck till death follows on the 27th day of November, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

BATTLEFORD, 9th October, 1885.

I hereby certify that the above is a true copy of all the proceedings and evidence had and taken in this case.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

QUEEN vs CHARLES DUCHARMES, ALIAS CHARLEBOIS, AND WAWASEHOWEEN (DRESSY MAN).

Copy of Record and Proceedings.

CANADA :
North-West Territories. }

The information and complaint of Alexander David Stewart, of the city of Hamilton, in the Province of Ontario and Dominion of Canada, chief of police, taken the twenty-third day of September, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the North-West Territories of Canada, who saith :

That Charles Ducharmes, otherwise called Charlebois, Wahsahgamap, otherwise called Bright Eyes, and Wawasehoween, otherwise called Dressy Man, on the thirtieth day of April, in the year of our Lord one thousand eight hundred and eighty-five, at the locality known as Frog Lake, in the North-West Territories of Canada aforesaid, did feloniously, wilfully, and of their malice aforethought, kill and murder one Puskayak, otherwise called "She Wins," against the form of the statute in such cases made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

A. D. STEWART.

Sworn before me the day, month and year }
above mentioned, at Battleford, in the }
North-West Territories.

CHAS. B. ROULEAU, *Stipendiary Magistrate for N.W.T.*

CANADA :
North-West Territories, }
Saskatchewan District, }
Battleford Division. }

The twenty-third day of September in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada.

Before Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada, passed in the forty-third year of Her Majesty's reign, and the amendments thereto, entitled : "An Act to amend and consolidate the several Acts relating to the North-West Territories :"

Charles Ducharmes, otherwise called Charlebois, Wahsagamap (Bright Eyes) and Wawasehoween (Dressy Man), three Cree Indians, of Frog Lake, in the North-West Territories of Canada aforesaid, who are now prisoners in close custody at Battleford aforesaid, stand charged this day before the said stipendiary magistrate, sitting in public open court, assembled for the trial of the said Charles Ducharmes alias Charlebois, Wahsagamap (Bright Eyes) and Wawasehoween (Dressy Man) ;

For that they, the said Charles Ducharmes alias Charlebois, Wahsagamap (Bright Eyes) and Wawasehoween (Dressy Man), on the thirtieth day of April, one thousand eight hundred and eighty-five, at the locality known as Frog Lake,

in the North-West Territories of Canada aforesaid, did feloniously and wilfully, and of their malice aforethought, kill and murder one Puskayak (She Wins) against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

After being duly arraigned the prisoners to this indictment plead "not guilty."

William Mackay, Esq., after being duly sworn, acted as interpreter.

The prisoners elected to be tried by the stipendiary magistrate and a justice of the peace with the intervention of a jury.

The trial of the said prisoners was fixed for the 25th September, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

BATTLEFORD, 23rd September, 1885.

BATTLEFORD, 25th September, 1885.

Present: Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, and Pierre Chrysologue Pambrun, Esq., J.P., with the intervention of the following jurors who are duly sworn, to wit: Harry Phipps, 1; Charles Anther-son, 2; Hugh Canamow, 3; John Connor, 4; George H. Clouston, 5; Hartley Gisborne, 6.

William Sharpe, Esq., represents the Crown.

Evidence of Prosecution.

François Dufresne, of Fort Pitt, in the North-West Territories, yeoman, being duly sworn, says as follows:—

On the 16th of April, or about that time, I was a prisoner in Big Bear's camp, at Frog Lake. I saw the murdered woman Paskayak two days before she was killed. When I saw her she was walking to the camp with a stick in her hand. The day the woman was killed some Indian said: "Here is the cannibal going." I went where the old woman was and I saw her sitting in a tent. I told the Indians she was sick. "No;" they said: "She is a cannibal and we are going to kill her." I told them they had better tie her and she would get better in a few days. I heard the Indians say that anybody that would kill the woman it would be all right. An Indian came and told me she was to be killed and I went out and saw the Indians carrying the woman in a skin. Amongst the Indians carrying the old woman I saw Charles Ducharmes with a stick in his hand, Dressy Man had an axe, and Bright Eyes had a gun. The Indians carried that woman about a mile from the camp and placed her on the ground and she knelt on the hide, and one of the prisoners Charles Ducharmes was standing beside the woman and said: "My friends you asked everybody to kill that woman and nobody would do it. After I strike her, don't say I struck the old woman and laugh at me." All the Indians said "yes." Then prisoner Ducharmes struck the woman with his stick a hard blow on the side of the head and the woman fell on her side. As soon as the woman fell on her side Bright Eyes fired a shot at her head. I saw the blood run from her head and the powder burn her hair. He put the gun very close to her head. There was another Indian that fired at the woman but he is not a prisoner. Then Dressy Man, the other prisoner, gave the woman a blow with a sharp side of the axe which made a big gash in her neck. The blood flowed from that wound.

Cross-examined.—When Ducharmes struck the blow I did not see the woman trying to get up. It was Bright Eyes that I saw firing the first shot at the woman. There were two shots fired at the woman.

PASKWYAK, a Cree Indian, being duly sworn, doth depose and say:

I saw the Cree woman killed before the leaves came out. I saw prisoner Ducharmes there with a stick in his hand, and struck the woman on the head, and the woman fell over. There were no Indians between the prisoner Ducharmes and the woman. After prisoner Ducharmes struck the woman I saw Bright Eyes firing a shot at her. He hit the woman, but don't know what part of the body. I

saw Dressy Man the prisoner, but I am not certain if he had any weapon. I saw that woman only twice previous to the murder. I heard the old woman say it would be better to take her away from the camp and kill her, because if they did not that she would destroy the women and children.

Prisoner declines to cross-examine.

This closes the evidence for the prosecution.

The prisoners state that they have no evidence to adduce, as the witnesses for the prosecution stated what was true.

CHAS. B. ROULEAU, *Stipendiary Magistrate, N.W.T.*

P. C. PAMBRUN, J. P.

BATTLEFORD, 25th September, 1885.

The jury returned a verdict of Bright Eyes guilty of murder.

CHAS. B. ROULEAU, *Stipendiary Magistrate, N.W.T.*

P. C. PAMBBUN, J. P.

BATTLEFORD, 25th September, 1885.

Sentence, death, against the two prisoners, Charles Ducharmes and Dressy Man.

Charles Ducharmes and Dressy Man to be hanged by the neck till death follows, on the twenty-seventh day of November next, eighteen hundred and eighty-five. And Bright Eyes sentenced to twenty years in the Manitoba Penitentiary.

BATTLEFORD, 25th September, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

RETURN

(SUPPLEMENTARY, FINAL)

(52b)

To an ADDRESS of the HOUSE OF COMMONS, dated 5th March, 1886 :—For copies of all documents forming the record in the cases of Her Majesty against the different parties tried in connection with the late Rebellion, including the Jury Lists, the names of the Jurors, the lists of the Jurors empannelled, the motions and affidavits filed, the evidence, the incidents of the trial, the charges of the Judge, the names of the Judges who tried the different cases, the names of the counsel for the prosecution and for the defence, the pleas entered, the verdicts, and the sentences, and, in short, of every document whatever relating to the said trials.

By Command.

J. A. CHAPLEAU,

Department of the Secretary of State,
March, 1886.

Secretary of State.

OTTAWA, 18th March, 1886.

As a Supplementary Final Return to an Address of the Honorable the House of Commons, dated the 5th instant, for copies of all documents forming the record in the cases of Her Majesty against the different parties tried in connection with the late rebellion, including the jury lists, the names of the jurors, the lists of all jurors empannelled, the motions and affidavits filed, the evidence, the incidents of the trial, the charges of the judge, the names of the judges who tried the different cases, the names of the counsel for the prosecution and defence, the pleas entered, the verdicts and the sentences, and, in short, of every document whatever relating to the said trials, the undersigned has the honor to transmit herewith transcripts of the records and proceedings in the four cases mentioned in the schedule hereto annexed.

A. POWER, for D. M. J.

SCHEDULE.

Supplementary Final Return of all cases of Her Majesty against the different parties tried in connection with the late rebellion.

Name.	Place.
1. Mus-sin-ass	Battleford.
2. Co-pin-ou-way-win	do
3. Pee-yay-cheew	do
4. Wah-Piah	do

AYLMER, QUE., 17th March, 1886.

SIR,—Enclosed I have the honor to forward a true and certified copy of all documents in my possession of persons tried before me at Battleford for treason-felony, and also the account of Joseph Woods for copying the same.

I have the honor to be, Sir, your most obedient servant,

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

The Hon. the Minister of Justice, Ottawa.

CANADA :
North-West Territories. }

The information and complaint of John Alfred Martin, of Battleford, in the North-West Territories of Canada, sergeant in the North-West Mounted Police, taken the fifth day of October, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates, in and for the North-West Territories of Canada, who saith:—

That Co-pin-ou-way-win, Mussinass and Pee-yay-cheew, not regarding the duty of their allegiance, but wholly withdrawing the love and obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear towards our said Lady the Queen, on the second day of May, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days as well before as after that date, together with divers other evil-disposed persons to the said John Alfred Martin unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen within Canada, in order by force and constraint to compel her to change her measures and counsels, and the said felonious compassing and imagination, invention, device and intention, then feloniously did express and utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say:—

In order to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Co-pin-ou-way-win, Mus-sin-ass and Pee-yay-cheew, afterwards, to wit, on the twenty-seventh day of March, in the year aforesaid, and on divers other days and times, as well before as after that

day, at and near the locality called Battleford, in the North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together with divers other evil-disposed persons to the said John Alfred Martin unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm.

And further, to fulfil, perfect and bring into effect their felonious compassing, imagination, invention, device and intention aforesaid, they, the said Co-pin-ou-way-win, Mus-sin-ass and Pee-yay-cheew, afterwards, to wit, on the twenty-ninth day of April, in the year aforesaid, and on divers other days and times as well before as after that day, at or near the locality known as "Cut-Knife Hill," in the said North West Territories of Canada, together with certain other evil-disposed persons to the said John Alfred Martin unknown, feloniously and wickedly did express, utter and disclose their said felonious compassing, imagination, invention, device and intention by feloniously publishing a certain letter or writing addressed to one Louis Riel, who was then with certain other evil-disposed persons to the said John Alfred Martin unknown, in open rebellion and insurrection against our said Lady the Queen, in the said North-West Territories of Canada, in the words following, to wit:—

"CUT-KNIFE HILL, 29th April, 1885.

"To Mr. LOUIS RIEL,—I want to hear news of the progress of God's work. If any event has occurred since your messengers came away, let me know of it. Tell me the date when the Americans will reach the Canadian Pacific Railway; tell me all the news that you have heard from all places where your work is in progress. Big Bear has finished his work; he has taken Fort Pitt. 'If you want me to come to you, let me know at once,' he said; and I sent for him at once. I will be four days on the road. Those who have gone to see him will sleep twice on the road. They took twenty prisoners, including the master of Fort Pitt. They killed eleven men, including the agent, two priests and six white men. We are camped on the creek just below Cut Knife Hill, waiting for Big Bear. The Blackfeet have killed sixty police at the Elbow. A half-breed, who interpreted for the police, having survived the fight, though wounded, brought this news. Here we have killed six white men. We have not taken the barracks yet, but that is the only entire building in Battleford. All the cattle and horses in the vicinity we have taken. We have lost one man, a Nez Percé killed, he being alone, and one wounded. Some soldiers have come from Swift Current, but I do not know their number. We have here guns and rifles of all sorts, but ammunition for them is short. If it be possible we want you to send us ammunition of various kinds. We are weak only for the want of that. You sent word that you would come to Battleford when you had finished your work at Duck Lake. We wait still for you, as we are unable to take that fort without help. If you send us news send only one messenger. We are impatient to reach you. It would give us—encourage us much to see you, and make us work more heartily. Up to the present everything has gone well with us, but we are constantly expecting the soldiers to visit us here. We trust that God will be as kind to us in the future as he has in the past. We, the undersigned, send greeting to you all.

"POUNDMAKER,
"CO-PIN-OU-WAY-WIN,
"MUS-SIN-ASS,
"MEE-TAY-WAY-IS,
"PEE-YAY-CHEEW.

"When this reaches you send us news immediately, as we are anxious to hear the news. If you send us news, send as many men as possible."

The said Co-pin-ou-way-win, Mussin-ass and Pee-yay-cheew then well knowing that the said Louis Riel and the said other evil-disposed persons were then in open rebellion and insurrection against our said Lady the Queen, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending

against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

J. A. MARTIN.

Sworn before me the day and
year first above-mentioned, at
Battleford, in the said North-
West Territories of Canada.

CHAS. B. ROULEAU,

A Stipendiary Magistrate for the said North-West Territories.

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

CANADA:
North-West Territories,
Saskatchewan District. }

The fifth day of October, in the year of our Lord one thousand eight hundred and eighty-five, in the Saskatchewan district, Battleford division, in the North-West Territories of Canada:

Before Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories, exercising criminal jurisdiction under the provisions of the Act of the Parliament of Canada, passed in the forty-third year of Her Majesty's reign, and the amendments thereto, entitled: "An Act to amend and consolidate the several Acts relating to the North-West Territories."

Co-pin-ou-way-win, Mus-sin-ass and Pee-yay-cheew, three Cree Indians, of Battleford, in the North-West Territories aforesaid, who are now prisoners in close custody at Battleford aforesaid, stand charged this day before the said stipendiary magistrate, sitting in public open court, assembled for the trial of the said Co-pin-ou-way-win, Mus-sin-ass and Pee-yay-cheew.

For that they the said Co-pin-ou-way-win, Mus-sin-ass and Pee-yay-cheew are accused, at several dates, of treason-felony against the form of the statute in such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

Being duly arraigned, the prisoners plead: Co-pin-ou-way-win and Mus-sin-ass not guilty, Pee-yay-cheew guilty.

WILLIAM McKAY, Esq., being duly sworn, acted as interpreter.

William P. Sharpe, Esq., barrister, represents the Crown.

The trial of the two prisoners, Co-pin-ou-way-win and Mus-sin-ass, after having made option to be tried by the stipendiary magistrate alone, is fixed by consent to the 8th day of October 1885.

The sentence of Pee-yay-cheew is deferred till after the trial of the two other prisoners.

BATTLEFORD, 5th October, 1885.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N. W. T.*

BATTLEFORD, 8th October, 1885.

Present: Chas. B. Rouleau, Esq., stipendiary magistrate for the North-West Territories.

William P. Sharpe, Esq., barrister who represented the Crown, and William McKay, Esq., who acts as interpreter.

The case of the Queen vs. Co pin-ou-way-win and Mus-sin-ass, accused of treason-felony, being called, the following evidence was taken.

Evidence on Behalf of the Prosecution.

PIERRE CHRYSOLOGUE PAMBRUN, of Battleford, farmer, being duly sworn, doth depose and say:—

About the end of March last, there was an outbreak of the Indians in the vicinity of Battleford. I saw Co-pin-ou-way-win amongst the Indians, when I overtook their camp. The Indians told me they were coming down to make a demand on the Indian Agent Rae. There were a large number of Indians; they were armed. I went to speak to the Indian Agent Rae and when I came back towards about six o'clock, p.m., all the Indians were south of Battle River. When I came back to the barracks from my place next day, in the evening all the houses and stores on the south of Battle River had been plundered by the Indians.

The prisoners decline to cross-examine.

ASSISKIWNATAUKO (The Old Woman Earth), having solemnly affirmed to tell the truth, says as follows:—

I know the prisoners by sight. I was here at the time the stores were raided by the Indians. I cannot say that I saw the prisoners there.

The prisoners decline to cross-examine.

K-YAM KA-PIT (One-who-sets-still), having solemnly affirmed to tell the truth, says as follows:—

I was here when the Indians raided the stores. I know Mus-sin-ass, one of the prisoners. I did not see him that day. I saw him start with the Indians of Sweet Grass' Reserve. I saw him coming towards Battleford. I don't remember to have seen Mus-sin-ass amongst the Indians.

The prisoners decline to cross-examine.

ROBERT JEFFERSON, of Eagle Hill, being duly sworn, doth depose and say:—

I was farm instructor on Poundmaker's Reserve at the time of the outbreak. The Indians left the reserve towards the end of March last. As soon as the Indians came back from Battleford, about the first of April last, I considered myself as a prisoner. At one time, about the 12th of April last, the prisoner Co-pin-ou-way-win came to superintend the digging of a grave. I saw the two prisoners, but I cannot say I saw them armed at any time. The young men were armed all the time, the old men were armed only occasionally. The prisoners were in the camp three or four days before the battle of Cut Knife and after the battle. I am sure the prisoners were in the camp all the time, with the exception of Co-pin-ou-way-win who went away for a short time. Co-pin-ou-way-win went to fetch in his brother, who was a day's march from camp. He brought him along with him, saying that he was a very good counsel.

I saw the letter produced in court. It is my hand-writing. One Indian came and told me I was wanted. I followed him into a tent in the middle of the camp. There were six or eight men in the tent, to wit: Poundmaker (the chief) Co-pin-ou-way-win, Mitcheways, Pee-yay-cheew, Jakecum, Mus-sin-ass, The-man-who-shot-the-eagle, Pitche-was and myself. I believe Poundmaker said to sit down, they wanted me to write a letter. They got the back of a cart, paper and pencil and they began to dictate. They would dictate in turn. Co-pin-ou-way-win dictated the principal part of it. Mus-sin-ass took part in it also. That letter is the joint dictation of the names which are at the foot of the letter. I told them that this letter should be signed by somebody. Co-pin-ou-way-win said; let Poundmaker sign it. I asked Poundmaker and he said: "Yes." Then the whole of them said: "Put down all our names," and they all agreed to their names being put down. There is no doubt whatever that I was authorized by the two prisoners to sign their own names to the letter. Jobin, one of the half-breeds, made the alteration about the messenger. I gave the letter to Poundmaker and a messenger left with it to take it to its address.

Cross-examined:—I am not certain that I came into the tent last. I never said that Co-pin-ou-way-win was first to speak. I am certain that you prisoners told me to put down your names. Co-pin-ou-way-win had sent for his brother long before he went for

him himself. He went for his brother the day before "Cut Knife" battle. Co-pin-ou-way-win sent Mistatimwas for his brother. Mistatimwas' principal mission was to bring his father down and tell Co-pin-ou-way-win's brother *en passant*.

Re-examined by permission of court:—The object of the rebellion amongst the Indians was to make a complete change in the government of the country.

Re cross-examined:—I heard the Crees say that Riel told them that the Americans were to take possession of the country.

THOMAS MAGUIRE, of Battleford, gunner in "A" Battery, being duly sworn, doth depose and say:—

I knew Louis Riel when he was a prisoner after the battle at Batoche. As far as I know I believe he was the leader of the rebellion.

Prisoners decline to cross-examine.

This concludes the evidence on behalf of the Crown.

Evidence on behalf of the Defence.

MITCHEWAYES (Conjurer) a Cree Indian, having duly affirmed, doth depose and say:—

I was present in the tent when Jefferson was there, but never heard Co-pin-ou-way-win nor Mus-sin-ass tell him to put their names at the foot of the letter. The party who wanted the letter to be written was Jakcum. I say that Jakcum was the principal man who dictated the letter. I did not hear Co-pin-ou-way-win send a messenger for his brother. I never heard him advise anybody to do any harm. The prisoner Co-pin-ou-way-win was the last man to come into the tent. I never saw you at any time take up arms against the white man. You were always trying to keep the Indians peaceable. Ever since I knew Mus-sin-ass I never knew he did any wrong to the white men. I never heard you urge the young men against the white men. During all that trouble I always heard you trying to prevent all trouble.

I never heard Mus-sin-ass authorize anybody to put his signature at the foot of the letter. I never heard you dictating this letter.

Cross-examined: I was in the tent when the letter was written. It was Poundmaker's tent. I was sent to come by someone, I don't remember the name. I went in and sat near the door of the tent. I did not look around to see who was there. There was another man besides the prisoners there, that was "The man who shot the eagle," but I don't think he remained long there; I noticed also Jakcum. We went there in the tent for the purpose of hearing news that Jakcum was to read, so stated Poundmaker. Mus-sin-ass was a councillor before the outbreak, but I don't know about Co-pin-ou-way-win.

Jakcum wanted to send a letter to his friends to tell them about his plans. All I can remember about the letter is that they gave some news that they had received which I don't remember. I did not hear anything about the composition of the letter amongst themselves, except by Poundmaker and Jakcum. Jefferson was there. I was a councillor before the outbreak. I was here the day the Indians came to Battleford. I saw Mus-sin-ass, but I don't remember to have seen Co-pin-ou-way-win. The prisoners were in the camp. There was no sufficient light in the tent for me to see them all in the tent.

KI HI WA-KA PIM-WAT (One that shoots the eagle) having affirmed solemnly to tell the truth, says as follows:

To Mus-sin-ass:—I did not hear you say that you wanted to give your name to the letter, I never heard you dictating any part of the letter.

Cross-examined:—When I went to visit Poundmaker in his tent, Mus-sin-ass came after me, and Jakcum after Mus-sin-ass. Jakcum said to Poundmaker that he wondered if Jefferson would write a letter to send to his friends, and he stated also that he would like some other Indians there, and some were called in. He stated he wanted to let them know what had taken place out west here. Then I left the tent, Jakcum came from Duck Lake. He must have brought news of the Duck Lake fight. I was amongst the Indians that came to Battleford. I saw the two prisoners with us.

REV. LOUIS COCHIN, O.M.I., being duly sworn, deposeth and saith as follows:—
It is not within my recollection that Co-pin-ou-way-win took any active part in the rebellion. I know personally that he has tried to do good, that he has protected me and the other prisoners against the Assiniboinés and other Indians.

Not cross-examined.

This closes the evidence of the defence.

Declared guilty.

Sentence: Two years in the Manitoba penitentiary.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

BATTLEFORD, 8th October, 1885.

CUT KNIFE HILL, 29th April, 1885.

To MR. LOUIS RIEL :

I want to hear news of the progress of God's work. If any event has occurred since your messengers came away let me know of it. Tell me the date when the Americans will reach the Canadian Pacific Railway. Tell me all the news that you have heard from all places where your work is in progress. Big Bear has finished his work. He has taken Fort Pitt. "If you want me to come to you let me know at once," he said, and I sent for him at once. I will be four days on the road. Those who have gone to see him will sleep twice on the road. They took twenty prisoners, including the master of Fort Pitt. They killed eleven men including the agent, two priests and six white men. We are camped on the creek just below Cut Knife Hill, waiting for Big Bear. The Blackfeet have killed sixty police at the Elbow. A half-breed who interpreted for the police, having survived the fight, though wounded, brought this news. Here we have killed six white men. We have not taken the barracks yet, but that is the only entire building in Battleford. All the cattle and horses in the vicinity we have taken. We have lost one man, a Nez Percé killed, he being alone, and one wounded. Some soldiers have come from Swift Current, but don't know their number. We have guns and rifles of all sorts, but ammunition for them is short. If it be possible, we want you to send us ammunition of various kinds. We are weak only for the want of that. You sent word that you would come to Battleford when you had finished your work at Duck Lake. We wait still for you, as we are unable to take the fort without help. If you send us news send only one messenger. We are impatient to reach you. It would give us—encourage us much to see you, and make us work more heartily. Up to the present everything has gone well with us, but we are constantly expecting the soldiers to visit us here. We trust that God will be as kind to us in the future as he has in the past. We, the undersigned, send greeting to you all.

POUNDMAKER,
CO-PIN-OU-WAY-WIN,
MUS-SIN-ASS,
MEE-TAY-WAY-IS,
PEE-YAY-CHEEW.

When this reaches you send us news immediately, as we are anxious to hear the news.

If you send us news send as many men as possible.

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

QUEEN vs. WAHPIAH.

CANADA :
North-West Territories. }

The information and complaint of Joseph Quigley, of Battleford, in the North-West Territories of Canada, constable in the North-West Mounted Police, taken the

twenty-first day of October, in the year of our Lord one thousand eight hundred and eighty-five, before the undersigned, one of Her Majesty's stipendiary magistrates in and for the North-West Territories, who saith:

That Wahpiah, otherwise called White Man, not regarding the duty of his allegiance, but wholly withdrawing the love, obedience, fidelity and allegiance which every true and faithful subject of our Lady the Queen does and of right ought to bear towards our said Lady the Queen, on the second day of April, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, together with divers other evil-disposed persons to the said Joseph Quigley unknown, did, within the Dominion of Canada, compass, imagine, invent, devise and intend to levy war against our said Lady the Queen, within Canada, in order by force and constraint to compel her to change her measures and counsels, and the said felonious compassing, imagination, invention, device and intention then feloniously did express, utter and declare by divers overt acts and deeds hereinafter mentioned, that is to say:

In order to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he the said Wahpiah, otherwise called White Man, afterwards, to wit, on the seventeenth day of April, in the year of our Lord one thousand eight hundred and eighty-five, and on divers other days, as well before as after that date, at or near the locality known as Fort Pitt, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together with other evil-disposed persons to the said Joseph Quigley unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen within this realm.

And further to fulfil, perfect and bring into effect his felonious compassing, imagination, invention, device and intention aforesaid, he the said Wahpiah, otherwise called White Man, afterwards, to wit, on the twenty-eighth day of May, in the year aforesaid, and on divers other days as well before as after that date, at or near the locality known as Frenchman's Butte, in the said North-West Territories of Canada, did conspire, consult, confederate, assemble and meet together with divers other evil-disposed persons to the said Joseph Quigley unknown, to raise, make and levy insurrection and rebellion against our said Lady the Queen, within this realm, in contempt of our said Lady the Queen and her laws, to the evil example of all others in like case offending against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

JOSEPH QUIGLEY.

Sworn before me the day, month
and year first above mentioned,
at Battleford, in the North-
West Territories of Canada.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

THE QUEEN vs. WAHPIAH (WHITE MAN).

Accusation.—Treason-felony.

WILLIAM P. SHARP, Crown prosecutor.

WILLIAM MCKAY, Esq., interpreter.

The prisoner pleads not guilty and elects to be tried summarily by the stipendiary magistrate without the intervention of a jury.

—Evidence for the Prosecution.

JAMES K. SIMPSON, of Fort Pitt, in North-West Territories aforesaid, clerk, being duly sworn, doth depose and say:

I know the prisoner. On the 2nd of April last (1885) I was made a prisoner at Frog Lake by Big Bear's Indians. I saw the prisoner when Big Bear's band came

back from Pitt, about two weeks after the massacre. The prisoner carried a gun and he remained with Big Bear's band all the time to my knowledge. The fight at Frenchmen's Butte took place about the 28th of May last (1885). I saw the prisoner up to that time, and after at Loon Lake. He was with the Indians then at that latter place during the fight. The prisoner was one of the leaders in the council tent of the Indians; that is the place where the Indians decide all their actions. The evening before the fight at Frenchmen's Butte, Big Bear's Indians were looking after the prisoners, and as they thought I had escaped, they enquired where I was, and other Indians answered: "I was sitting with them." I remarked the prisoner was amongst the party. The Indians were then aware that the loyal troops were near. The prisoner was taking a part in seeing that the white prisoners should not escape. There were some Indians who remained behind fighting at Frenchmen's Butte, and the prisoner was not with us, who were about four miles from the battle-field. The Indians told me that they wanted to upset the present Government and get the Americans to come into the country.

Prisoner declines to cross-examine.

WILLIAM B. CAMERON, formerly of Frog Lake, now of Battleford, in the North-West Territories, clerk, being duly sworn, doth depose and say:

I know the prisoner. I was made prisoner by Big Bear's band on the 2nd of April last (1885), and I remained as such till the 28th May last (1885), about the time of the fight at Frenchman's Butte. I first saw prisoner two or three weeks after the Frog Lake massacre. I think I saw him all the time around with Big Bear's Indians, more particularly with Wandering Spirit, who had the most influence amongst the Indians. When Indians were dancing the prisoner used to sit alongside of Wandering Spirit. The latter used his influence for bad. I saw the prisoner leading the white prisoners in company with Wandering Spirit to the centre of the camp, where they had their dancing tent. I saw a sword in the possession of prisoner. He had also an officer's black coat on. I escaped on the evening of the day the first shots were fired at Frenchman's Butte. Prisoner was amongst Big Bear's band, who were fighting. The prisoner was one of those who was looking for Henry Quinn when he was recaptured.

Cross-examined:—The reason I state that the prisoner was one of those who were looking after Henry Quinn is that he was going around the camp and in amongst the tents like a man looking for something.

SAKAMAN, a half-breed, being duly sworn, doth depose and say:—

Desnoyers is my real name. I was at Fort Pitt during the time of the siege last spring (1885), I cannot state what month. The ice was running in the river at the time. The first time I saw the prisoner he was at Vermillion River, the leaves were about coming out. It was a little below Frog Lake. I saw him next at the latter place. The prisoner had a gun and a sword-bayonet. He had a police coat with stripes on the arms. At the time they were searching for Henry Quinn the prisoner was amongst the Indians. I saw him going around and in the dancing tent of Big Bear's Indians. He used to speak at the council. I never heard in there anything good in favor of the prisoners. All I heard was to guard them and other times to kill them. The prisoner belongs to Thunder Child's reserve, near Battleford.

Prisoner declines to cross-examine.

ROBERT HUDSON, of Battleford, baker, being duly sworn, doth depose and say:—

I was at Pitt about the 17th of April last (1885). Pitt had been besieged by the Indians on the 15th of same month. I was made a prisoner by the Indians on that day. I saw him on the 16th April last, with Mr. Dickens' sword on. I remember speaking to Mr. Quinn about him. The prisoner always carried a gun. I remained a prisoner amongst Indians for two months and over. I saw him till the time we got to Loon Lake. I did not see him after Big Bear's party left us at Loon Lake.

Cross-examined:—I am not certain to have seen prisoner the day I was taken prisoner, but I am certain of the day after.

JOHN PRITCHARD, of Fort Pitt, interpreter of the Indian Department, being duly sworn, doth depose and say :—

I was a prisoner in Big Bear's camp from the 2nd April, 1885, till June of the same year. I saw the prisoner amongst Big Bear's Indians shortly after the capture of Fort Pitt. When Henry Quinn was in my tent, the prisoner came in and stated he wanted to kill him. Every time the tent was erected for council or dance, I saw the prisoner there. He seemed to take a prominent part in it. He was a man to talk a lot. Prisoner always saying not to release the white prisoners. It was at Frog Lake where I first saw the prisoner.

Prisoner declines to cross-examine.

This closes the case on behalf of the Crown.

The prisoner states that he has no evidence to adduce.

The prisoner declared guilty by the stipendiary magistrate.

Sentence: Six years penitentiary.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

A true and certified copy.

CHAS. B. ROULEAU, *Stipendiary Magistrate for the N.W.T.*

BATTLEFORD, 21st October, 1885.

MESSAGE.

(52c.)

LANSDOWNE.

The Governor General transmits to the House of Commons copies of certain letters of a confidential character, respecting the Rebellion in the North-West Territories during the year 1885.

GOVERNMENT HOUSE,

OTTAWA, 29th March, 1886.

* * * * *

DEAR SIR,—The French half-breeds on the Saskatchewan River, and a section of the English half-breeds living between the two rivers, have been holding meetings at St. Laurent, at which meetings all the members were sworn to secrecy. Notwithstanding this, enough has transpired to show that grave trouble will arise in the country unless repressive measures are adopted by the Government.

A number of resolutions were passed of a violent nature. Amongst others, resolution No. 3: "That they, the half-breeds, do not recognize the right of the Government to the North-West Territories," and appointed delegates to proceed to Montana, U.S., and invite Louis Riel to come over and be their leader in any further action they may determine on.

The delegates so appointed, named: Gabriel Dumont, Moise Ouellette, Michel Dumas and James Isbester, left yesterday for Montana to carry out the object of their mission. The French half-breed race living on the Saskatchewan numbers about 700 male adults, and are gathering force every year by immigration from Manitoba and the southern parts of the Territories.

These men are not farmers, merely cultivating small patches of land little larger than kitchen gardens. They live by hunting and freighting. Their occupation as hunters was ended by the disappearance of the buffalo and there is not sufficient

overland freighting going on in the country to afford labor to a third of their number, hence they are getting poorer year by year.

This in reality is the real source from which this agitation arises, although pretended grievances against the Government are pushed to the front.

These men avow that the Indians are in sympathy with them.

The French half-breeds are closely related to the plain Indians and there is a danger of the half-breeds persuading the Indians to join them should an uprising take place.

The Indians have no arms or ammunition it is true, but both arms and ammunition in considerable quantities belonging to the defunct Saskatchewan military organizations are scattered throughout the country without protection and could be seized at any moment.

These scattered arms and ammunitions should be collected and placed under police surveillance at Prince Albert, and the force increased to the extent of thirty men with an officer in command. A strong detachment should also be stationed at St. Laurent. I have an intimate knowledge of the character of these half-breeds, and, as you are aware, some influence over them. Many of the men I have spoken to are averse to any agitation leading to a breach of the law, but, that a number of Riel's abettors in the Red River troubles are resident in their midst and are promoters of this movement, and candidly state that they believe that if Riel is allowed to visit their settlements serious disturbances will arise therefrom.

In my opinion, and it is also the opinion of the Rev. Father André, who is the superintendent of the Roman Catholic missions on the Saskatchewan, that these delegates should be shadowed and if Riel accepts the invitation and attempts to cross the boundary line he should be made prisoner.

The Rev. Father also agrees with me that if Riel is not allowed to enter the country, the influence we can bring to bear on the body of the people will counteract the influence of that section of them who are leaders in this movement.

Any letters Riel might write would be of little avail. This matter I thought of such importance that I wired Lieutenant-Governor Dewdney, who arrived at Battleford on the 13th instant, as follows:—"Are you coming east? If not, like speak you over wire; important." Next morning I spoke to Governor Dewdney over the wire, telling him it was important I should meet him, if possible, giving him a mere outline of what had taken place. He could not then state what his movements would be, but said he would wire me in a day or two of his decision, since when I have not heard from him on this subject.

It is therefore well, I think, that you should put the Government in possession of these facts with as little delay as possible, impressing on the Premier the necessity of prompt investigation. * * * *

Re-Manitoba Rights.

18th June, 1884.

DEAR SIR,—I think there has not been since the commencement of the agitation a better time to strike than the present. Everything seems ripe for it. I am certain seven-eighths of the people of Winnipeg are in our favor, and I am certain four or five hundred good men will accomplish our object without any difficulty whatever. The fact of the matter is this, we have nothing to resist us, the military here is nothing more than a pack of boys, and we have easy access to the store-rooms. We had a small meeting to-night, and the parties present were unanimous in favor of making a strike at once. Now I think that if we delay we will not only be losing ground and the thing will never be accomplished. I would like to know the possible number of men who can be got from the country to assist in the scheme. I hope you will come to some definite conclusion at your council meeting.

Believe me I am in perfect sympathy with you, and I am ready at any time to take part in the more active part of the business and see if we can't get the people

their rights. Kindly let me hear from you in the matter at your earliest convenience and oblige.

Yours fraternally,

MACK HOWE, J. G.

GEORGE PURVIS, Esq., Brandon, Secretary Farmers' Union.

(*Private and Confidential.*)

I think you have made a small mistake in your appointment of Mr. Baily to the position he holds. I will not attempt here to give reasons, but consider it yourself.

I would suggest some good farmer who has been some time in the country and an actual farmer now.

Yours,

M. H.

CARLTON, 7th January, 1885.

(*Confidential.*)

SIR,—I have the honor to forward herewith a confidential report from Mr. Howe, from Prince Albert. It relates to the matter upon which I telegraphed you in cipher from here a few days ago. I had personal interviews with those mentioned in Inspector Howe's report, and they feel confident that Riel is sincere in saying he wishes to leave the country, and will do so as soon as he has the means. I quite agree with Père André, with whom I had a talk relating to this matter at Prince Albert a few days ago, that if this man Riel was out of the country the normal quiet would be restored. For, granting that his power to make serious trouble may be but problematical, yet his very presence here causes a feeling of uneasiness among the half-breeds and Indians, which, as you know, is taken advantage of by others who are neither half-breeds nor Indians, to further their own schemes and ends. Riel, certainly, has great influence with the half-breeds, and that being admitted, means influence with the Indians as well. They regard him as a man who has suffered for them and their cause, and that he is here to work in their interest. He knows full well how to play upon their superstitious natures, and though to white men some of his sayings and doings and proposed reforms seem absurd, even ridiculous, to the simple-minded natives the very absurdity of his expressions and ideas make him appear to them so much the greater man and benefactor to their people.

Of late he has appeared in the role of a religious reformer, and I am informed by one who certainly knows, that he has influenced even in that direction people proverbial for their regard for the teachings of their church and clergy, proving his influence, which he might use with embarrassing results.

The man says he has personal claims, the amount mentioned would cover those claims.

The matter of the claims of the half-breeds for scrip, and as to the manner of dividing and sub-dividing the land upon which they have already settled, imperatively requires the immediate attention of the Government, and that decisions at once be given for or against the wishes of those interested.

In the interest of this country I strongly urge a settlement of those important matters.

I need not enter into particulars as to the claims for scrip nor as to the changing of shape of the lots settled upon from ten chains front and two miles long to the regular block lots. You have heard and understand what is wanted, no doubt, quite well.

Some of the half-breeds report that the Indians are quite in accord with them, even the Sioux, and will act at any time and manner they wish. I do not, however, believe that there is universally with the Indians such an understanding, though there are undoubtedly bands and individuals among other bands who look to Riel and the half-breeds as their champions, and who, I think, have promised to join or act with them as they bid, and the greater the chances may be of the half-breeds and malcontent Indians accomplishing whatever object they have in view so many more

Indians proportionately would join them, and if any movement or agitation is the least successful it would be very apt to attract the whole Indian population either as strong sympathisers or active participants.

I have, &c.,

L. N. CROZIER.

Hon. EDGAR DEWDNEY, GOVERNOR N.W.T., Regina.

(Confidential.)

PRINCE ALBERT, 24th December, 1884.

SIR,—I have the honor to report that Mr. McDowell, member for the North-West Council, returned yesterday from St. Laurent, to which place he went accompanied by Père André, at the request of Louis Riel, who wished to hold a conversation with him as member for the district.

Riel stated that he was thinking shortly of returning to Montana if the Government would only give him the means to do so; he further stated that he wished representation made to the Government that if a certain sum was paid to him in cash (Mr. McDowell seems to think he would accept \$5,000), he would at once leave the country. He says that he has such influence with the half-breeds that any rights they think they have or claims upon the Government would be at once dropped by them if he advised them to do so.

He says he is very poor and has actually nothing to live upon, and if he cannot procure means to leave the country, as well as something to settle upon his wife and family, he will starve, which might make him desperate.

As soon as the Government gives him what he asks for, he will, he says, give up all connection with the other half-breeds, in fact throw them all over and pledge himself not to return to this country.

His influence among the half-breeds is very great he says, and that they will obey him most implicitly in whatever policy he may assume politically or otherwise. He says he should like to see Sir John but cannot procure the means to go to Ottawa.

I have, &c.,

JOSEPH HOWE, *Inspector.*

Commanding Officer North-West Police, Battleford.

PRINCE ALBERT, 7th July, 1884.

YOUR HONOR,—Your telegram affords me an opportunity to write you about an event of which you are sure to receive several different accounts, which will be colored according to the views and interests of the persons writing to you. I assure you I have no other design in writing to you than to keep you informed about the true state of things. Riel and delegates have arrived from across the line. The news may surprise and alarm you about the tranquility of the country, but you can set your mind quiet about that and have no fear of any disturbance in the country. You know I am known to be a friend of Mr. Riel, and I look to the event of his arrival among us as a danger for the peace of our community, but now I do not entertain the least suspicion about Riel causing any trouble. He acts quietly and speaks wisely. From all the reports I heard about him, he blamed strongly Charles Nolin for having refused to present your Honor with an address.

I enclose here the report of the delegates sent to Mr. Riel, and, too, the answer of Mr. Riel for his reasons accepting the request of the people of the Saskatchewan to come and see them in order to help them to obtain their rights from Government. You will see that answer is suitable, and smells not of treason. Those documents, of which I send you true copy, were handed to Louis Schmidt, as secretary of the committee appointed to organize, last spring, a deputation to Mr. Riel. L. Schmidt has been kind enough to provide me with a copy of these documents, which are to be made known at the meeting to be held next Tuesday at the South Branch, among English half-breeds. Mr. Riel is to come there. I think it is important that you should know those documents, which will show you Riel means no mischief.

You will receive alarming reports about the danger in which the country is in consequence of Riel's arrival. Do not believe a word. Those persons will be very glad that you should commit some rash act. They will send and advise you to have Riel arrested. For God's sake, never commit such an act before you have good motives to justify such an act. A good many persons will urge you to send here 200 or 300 policemen. They will be glad to see Government go to expenses, because that will be so much money put in their pockets. Nothing so far requires to send one man more to keep the peace of the country. The half-breeds, English as well French, understand too well the foolishness and the consequences of rising in a rebellion against the Government, and Riel seems really to act by good motives and to have no bad design. A man will not bring his wife and children along with him if he intended to raise a rebellion, and Mr. Riel has brought his wife and two little children with him, and that is the best proof that he has no bad intentions.

I write to you in earnest and tell you my sanguine conviction there is no danger of any trouble if you let quiet Mr. Riel, but if you or any official interferes with him or try to have him arrested there is almost a certainty of trouble, and half-breeds and Indians will join together; so, as long as Mr. Riel conducts himself quietly why trouble him and rouse the anger of the people? Excuse, Governor, my writing. I write in a great hurry, but I hope you will be able to make out what I mean. I will rather be long and tedious than miss to tell you something that is important for you to know. If you want to know something particularly I will be ready always to oblige your Honor and to send you full details.

With my best wishes, I remain, Sir, your humble servant.

FATHER ANDRE.

To Governor DEWDNEY, Regina.

PRINCE ALBERT, 23rd July, 1884.

DEAR MR. RIEL,—I sent the reports off in good shape by mail last night. We telegraphed to the *Free Press* to have your speech wired (about 1,000 words) I made a copy for the *Mail*, and returned the original in case they should wire us to-day.

I met Mr. Beatty, Mr. Isbester introduced me as he was starting for Carrot River, and sent with him two letters, one to a prominent Conservative, the other to a Liberal that they might act in unison. Without rousing any personal prejudice I described the great benefits which you had conferred upon us, so I think they will not look a gift horse in the mouth but suspend their judgment for the present and set to work. I invited them to make out their requirements and choose a delegate to executive committee, sending document and name to me. Mr. Beatty will set all going smoothly and then set out for his new home in Stony Creek district, where he will consolidate a strong North-West party. Beatty is the man who objected to my condoning Deacon's interference, you will remember, a good, solid man.

To-day I shall finish up work in town, and to-morrow start for the Lower Flat, &c. I will try and get out to your place towards end of week. Please be working up the petition into shape and we will get in neat form before the committee is called to endorse or alter it as they see fit. I have secured the Dominion Register and the Consolidated Act of Manitoba, will bring them out with me. There is a big work for us while the petition is waiting an answer, but I think we will be ready for a stiff campaign when the answer does come.

A number of trimmers are awaiting to see if the current in your favor will last, by the time they are satisfied it will be too late for them to bother us much if disposed to do so. T. J. Agnew proposed to MacIse that the Conservatives should take counsel together and adopt your platform under their party name. If they do so they will be snared by their own subtilty. Men who are willing to betray their country for party ends are going to learn that it is a speedy form of political suicide. Just imagine that they understand our policy. What a mess they would soon make of it?

MacIse is going to put his ideas into shape and hand them in to me.

I settled matters, commercial and political, with J. F. Bell, shook hands with him and cordially asked him to show his brain power in our work. He was somewhat astounded, I think, by my change of front, but I hope will shortly gather himself together and wire in. J. O. Davis is thinking the mercantile aspect out, also other merchants.

I set Joe Knowles to work on the solution of the statistical problem, and I think he will do good work for us.

I have seen Barker and other mechanics in regard to the effect of the Government policy on trade.

There is no necessity for awaiting statistics, of course, before drawing up the petition. That is a very simple matter, and could be done without any returns at all, in fact, for he who runs may read the numbers under which we labor. In the same time I have circulated the fullest invitation for every man to hand in his list. The town may possibly not elect its delegates in time for our drawing up the petition, but they have been invited to do so, and I will try and bring a good man with me in their behalf. I shall be just as well pleased if they reserve their strength for the statistical work, and we will not be ready for that till Knowles and I have come to a focus. He has a good head for that kind of business.

A clear, concise, logical petition will strengthen our hands more than a month of speechifying. Any bungling work will earn for us the contempt of the business men.

I have got on a friendly footing with Owen E. Hughes and will cautiously try to induce him to give us his ideas. He is a shrewd business man.

I may write up a reassuring explanation of our work in a manner to disarm prejudice, and put in the *Times* for the benefit of our home audience.

I am in good health except a slight cold, and enjoy good rest, and hope that you also are in good shape. We will not get much respite until after the petition, but we can rest calm and peaceful as to the result, while the enemies of our God are tossing on their beds devising evil things against themselves.

Clarke, Sproal & Co. have gone up to Battleford. They will inevitably prepare the good men to receive our doctrines, for they will associate with the oppressors of the people. The idea of sending an apostle in a quiet way up the river is suggesting itself to the minds of many, and I let it work. Providence knows the right man for the right work, and there is no use dictating to Him.

Maclise wrote privately to Blake asking him not to stop at L. Clarke's, and Blake wrote back that his health would not permit him to visit the North-West this summer. Your visit may cause him to change his plans, but I can keep posted through Maclise, who has kept up a correspondence with him since 1882.

Fisher is my lieutenant among the young men of the place, and keeps me posted as to the enemy's movements in that quarter. I think Deacon, who is a Methodist, has seen Mr. Parker, but Mr. Parker is too sound on principle to be lost to us. Mr. McWilliams, the Presbyterian minister, who has hitherto been a Liberal, stated last night at supper table that "he has yet to learn what our grievances are." It is the misfortune of clergymen that they see only one side of a man's character, and Mr. Sproal is a prominent pillar of the Presbyterian church; yet Mr. McWilliams is too good a man, I think, to be blinded for any length of time. I will leave him to form his opinion from events, and our petition may enlighten him as to our grievances.

It is Mr. Elliott's opinion that Mr. Jackson is too clever and lacks tact. My past line of action justifies that opinion, and it is perhaps as well that they are so well satisfied with a false key.

Dr. Porter's wife is a niece of Donald A. Smith, who is a close friend of Swanson's, and invests his money for him. These circumstances have their significance, but I believe their good hearts will carry them through. "The smoking flax he will not quench."

Clarke, the druggist, is apparently trying to serve God and Mammon. Let us pray that the best may prevail. The influence of an unprincipled friend is a terrible snare to a young man, especially one of keen intellect.

The *Free Press* has just wired for Riel's speech in full. I am going up with Ab. Porter after dinner. I have a great affection for Ab; I believe him to be a good honest soul.

I have got the prices paid to Hudson Bay Company contrasted with prices paid ordinarily for supplies, a valuable document; also the answer of the Secretary of State (Chapleau) to Norquay, anent Manitoba demands.

If any of our friends think I am not getting through business fast enough, please reassure them. You know me and my work, and an element of discontent is dangerous to the same.

I think I see our way clear to raising all the funds we want.

I think I have stated everything at present. I miss you very much, but it is as well that I learn to keep a close direct hold on the Father's hand.

Your friend,

WILL JACKSON.

I can't find my seal, all right, yet the enemy will only use it to their own destruction if they do intercept it.

REPORT OF THE DELEGATES.

To the gentlemen of the committee entrusted with the seven Resolutions adopted by the people of the Saskatchewan, William Cromartie, President, Louis Schmidt, Secretary.

GENTLEMEN,—As your delegates for that purpose, we have travelled the long journey of about seven hundred miles to seek an interview with Mr. Riel.

We had to go in the Territory of Montana as far as St. Peter's mission, situated in the county of Louis and Clerk, beyond Sun River, at the foot of the great Rockies.

We found him humbly and respectably employed as a teacher in the Industrial College of the Jesuit Fathers of that place. After having acquainted him with the object of our mission we handed him our credentials and the six resolutions on which we had to consult with him, also the document whereby our public invites him to the North-West. We asked him to come with us if he could and to aid us. This interview took place on the 4th of June. Mr. Riel read our papers of trust, and begged to be allowed twenty-four hours to think the matter over before giving an answer. We were received by Mr. and Mrs. Riel in a very friendly manner, their courtesy was sincere, simple and true. Generally when one enters the house of a very poor man the feeling of the visitors is more or less painful, but entering Mr. Riel's house our impression was different. The humble condition of his home reminded us of the opportunities he had for several years to become rich, and even to make an exceptional fortune, and how at all risks he stood firm by the confidence of his people. We know how much he wrought for Manitoba and how much he struggled for the whole North-West, and seeing how little he worked for himself, we came back after a long trip of some fourteen hundred miles with twice as much confidence in him as we had on leaving to go and seek him in a foreign land.

After taking into consideration the object of our visit, Mr. Riel told us that his advice from the other side of the line would be of no use to the North-West, he said that it had always been his principle to assist, as far as it laid in his power, those who happened to be in need of help within his reach. The people of the British North-West were particularly dear to him as he had suffered a great deal for their cause and welfare; that he had yet interest identical in several ways with theirs, and when invited as he was by a special delegation to go and strengthen their peaceable efforts in support of their rights, he could not refuse his help, little as it was, said he.

He concluded to accompany us with his family, he retired from his employment on the 9th June, and we had the pleasure to start with him on the 10th. Our trip would have been pleasant in every way had it not been that Mrs. Riel had great trouble with her baby fallen sick on account of exposure. We sincerely hope that now the journey being over the child will soon recover.

Mr. Riel comes to help us without pretensions. He hopes that before long the North-West will be quite united and that the Government will see its way to do what is right towards every class of our people.

Further information with regard to our delegation will be given to your committee at such time and place as you may see fit, and we have the honor to enclose herewith the written answer given to the delegates by Mr. Riel, who besides now personally explained his views on each of the resolutions and on the line of action which we have to follow. His conversation inspires us with the greatest confidence, as his intentions are to help us, but if we understand him well he will help us without any wish on his part to embarrass the Government.

We have the honor to be, gentlemen, your delegates and humble servants,

GABRIEL DUMONT,
J. ISBESTER,
MOÏSE OUELLETTE,
M. DUMAS.

ST. PETER'S MISSION, 5th June, 1884.

To Messrs. James Isbister, Gabriel Dumont, Moïse Ouellette and Michel Dumas.

GENTLEMEN,—You have travelled more than 400 miles from the Saskatchewan country, across the international line, to make me a visit. The communities in the midst of which you live have sent you as their delegate to ask my advice on various difficulties which have rendered the British North-West as yet unhappy under the Ottawa Government. Moreover, you write me to go and stay amongst you, your hope being that I, for one could help to better in some respects your condition. Cordial and pressing is your invitation. You want me and my family to accompany you. I am at liberty to excuse myself and say no. Yet, you are waiting for me, so that I have only to get ready, and your letters of delegation give me the assurance that a family welcome awaits me in the midst of those who have sent you. Gentlemen, your personal visit does me honor and causes great pleasure, but on account of its representative character, your coming to me has the proportions of a remarkable fact; I record it as one of the gratifications of my life. It is a good event, which my family will remember, and I pray to God that your delegation may become a blessing amongst the blessings of this my fortieth year.

To be frank is the shortest. I doubt whether my advice given to you on this soil concerning affairs on Canadian territory could cross the borders and retain any influence. But here is another view. The Canadian Government owe me two hundred and forty acres of land according to the thirty-first clause of the Manitoba treaty. They owe me also, five lots, valuable on account of hay, timber and river frontage. Those lots were mine according to the different paragraphs of the same thirty-first clause of the above-mentioned Manitoba treaty. It is the Canadian Government which have deprived me, directly or indirectly, of those properties. Besides if they only pay attention to it a minute, they will easily find out that they owe me something else.

Those my claims against them are such as to hold good, notwithstanding the fact that I have become an American citizen. Considering then your interest and mine, I accept your very kind invitation. I will go and spend some time amongst you. By petitioning the Government with you, perhaps we will all have the good fortune of obtaining something. But my intention is to come back early this fall.

Montana has a pretty numerous native half-breed element. If we count with them the white men interested in the half-breed welfare, by being themselves heads of half-breed families or related to them in any other way, I believe it safe to assert that the half-breed element of Montana is a pretty strong one. I am just getting acquainted with that element. I am one of those who would like to unite and direct its vote so as to make it profitable to themselves and useful to their friends. More-

over, I have made acquaintances and friends, amongst whom I like to live. I start with you but to come back here sometime in September.

I have the honor, gentlemen delegated to me, to be your humble servant,

LOUIS RIEL.

PRINCE ALBERT, 21st July, 1884.

HONORABLE SIR,—Since my last letter to your Honor nothing has happened to disturb my belief that Riel, in coming to this country, has not any bad design in view. He has acted and spoken in a quiet and sensible way every time he has had opportunity of appearing before the public, and no one can point out any act or word of his which is liable to create any disturbance in the country. All his endeavors, so far as I know, are to make the people understand that in answering to their call he has in view no other object than to help them by legitimate and peaceful means. Riel, he says himself; of 1869 and 1884 are quite two different men. We have now in the country a regular Government which exists by authority of Her Majesty the Queen; in 1869 he made a stand against Canada, which wanted to take possession of the country without any previous agreement to secure the rights of the people of Manitoba and the North-West, but to-day the North-West is an integral part of Canada, and having the experience of almost nine years spent in the States, he is able to assure his countrymen, the half-breeds, they are better off on this side of the line, and does not wish them to become Americans. He has passed through a hard school in which he has learned a good many useful lessons, and the one he sets to heart is to remain quiet and to work for his fellow countrymen by open and fair ways. Everywhere Riel goes he is creating the most favorable impressions in his favor, and with the exception of ten or twelve prejudiced persons he seems to be very popular, not only amongst the French, but also among the English population. Five or six persons here at Prince Albert who think themselves superior to other men, and think they have the right by birth (and you may be sure the Royal Prince is one of them) to lead the people, have been greatly offended because a great number of citizens at Prince Albert sent to Riel a petition asking him to come down and address them at a public meeting, every misfortune, murder, bloodshed, were sure to be the result if Riel was mad enough to come down; that was the prospect put before us during all last week, by those prophets *de malheur*, but they were greatly disappointed in their expectations. Riel came down last Saturday, and he received a really hearty and enthusiastic welcome from the people of Prince Albert. The meeting went out quietly, only one man tried to raise a row, and he was put out quickly. There was a mass meeting, such as Prince Albert has never seen; people came from the country to meet Mr. Riel, from everywhere, and they went back struck with the quiet and gentle way he spoke to them. I enclose here a summary of his speech. The enthusiastic welcome which Riel received at Prince Albert, I account on one hand by that feeling of mere curiosity of the people to see and to hear a man whose name has been before the public for so long a time, and who held so large a place in the history of the country, and on the other hand, by the wish to defeat the intrigues of a certain clique of men here at Prince Albert, who have tried so much to stop Riel from coming to Prince Albert. To-day those men have failed, and have seen their expectation to see a riot fall down, and they are greatly disappointed and will try to represent things under a black cloud, not according to real facts, but according to their imagination; they will try to distort the simplest things, and will represent Riel as bound to disturb the peace of the country; but, Governor, as an honest man, I tell you the country is quiet, and as far as I can see, Riel has no other purpose than to help the people in their difficulties. He strongly advocates peace and union among all the several sections of the country. I have not heard a hard word fall from his mouth. What are his purposes? They are a good many and require a long time if he wanted to see them carried out. 1st. He wants the half-breeds to have a free grant to the land they occupy; he wants to agitate to have the three districts of Saskatchewan, Alberta, Assiniboia, erected into

Provinces, or at least to have each district represented in Parliament; he wants the land laws amended to suit more the rapid settlement of the country. These, as far as I remember, are the leading points to which he addressed the people of Prince Albert last Saturday. I went to hear him and I may say that he speaks well and eloquently, he speaks fluently English and his expressions are just and correct. He created a great sensation and was immensely applauded all through his long address, and his opponents are obliged to credit him with much talents and a clever way to bring the people over to him. I could not help admiring him to see how, situated as he was, he overcomes all the difficulties which surround him and draws the sympathies of the assembly towards him. What will be the end of all this? The end will be that we will have for a time plenty talk, plenty meetings, plenty petitions, and after a time the excitement will get over and we will become calm as usual, and Riel who is our wonder to-day, will become a common mortal for us, and we will be as much advanced as we are to-day, and these great reforms will become stale things, and the big men will go down. That, sir, is my impression of the present state of things. We wanted something to occupy us for a while talking about him, and put an end to the talk about the crops and the poor prospect before us to have a good one.

Now, as far as my opinion is worth anything, I advise strongly not Government to interfere with Riel as long as he keeps quiet. I cannot hide from you that his influence for good or evil is great among the half-breeds, French as well as English; he has great many admirers even among the white population, and the Indians in the North-West will remain quiet as long as the half-breeds will not set a bad example to them. They all look on Riel as their leader, and the Government ought to act wisely not to create an outbreak by any rash act of theirs. I am convinced there is not any danger of disturbance. The arrival of Riel has acted as a calm on all the agitated minds, and all his words are to advocate peace and good feelings among all the people in the country. I write you what I think right. I have no purpose in view but to see our people quiet and satisfied, and keep you informed how things are going on among us. I have seen Riel three or four times, and so far have nothing but good to say of him. To see him and to converse with him leaves no doubt in anybody's mind he is gentle and modest in expressing his views, and he is far from being bitter against the Government. In his public utterances I did not hear Riel speak contemptuously of anybody in disapproving things, he is always respectful towards persons in authority, and he shows really himself a perfect gentleman, whatever to the contrary some notorious persons may say.

My letter is already long enough, but it is not very soon, Governor, I will afflict you with the penance of reading another.

With all my best wishes for you, I remain your obedient and respectful

A. ANDRÉ.